



Costs Decision

Site visit made on 16 February 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Costs application in relation to Appeal Ref: APP/E3335/Z/23/3332669 Land on the South Side of Station Approach Frome BA15 2NG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wildstone Estates Limited against the decision of Somerset Council.
 - The appeal was against the refusal of the Council to grant express permission for Erection of 1 No.48 Sheet Externally Illuminated Paper and Paste Advertising Display, measuring 6.0m wide x 3.0m high and 1.9m from ground level to base at Land on the south side of Station Approach , Frome, BA15 2NG.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The matter appealed was intended as an alternative to a proposal for a digital display of similar size in the same location. The applicant states that he made this (second) proposal in response to local concern as to the grant of express consent for the (first) digital proposal and, in his statement of case, that this remains a 'fallback' position and the refusal for the second proposal is inconsistent.
4. I note that the Committee minutes point to the first decision being made under delegated powers and by Mendip Council¹ however, Somerset Council is the continuing Local Planning Authority and the existence of the first grant of consent was known to the Council at the time of their decision. It is referred to in the Minutes of the Council's East Planning Committee and Frome Town Council consultee response² makes reference to the change of display type as a favourable factor. Consequently the Council would have been aware of the likely fallback position³ at the time they refused the 'paper and paste' application.

¹ Became part of Somerset Council in April 2023

² Frome Town Council 'appreciate the steps taken by the applicant after listening to residents' concerns'

³ the officer report indicates the benefits of the proposal in terms of reduced lighting in comparison with the digital display

5. The Courts direct that 'unreasonable' should have its ordinary meaning when considering the behaviour of parties. The two advertisements would have been, in any rational sense, directly comparable in terms of siting and potential impacts; consequently to grant one and refuse the other without suitable justification is not only inconsistent but unreasonable in the circumstances set out. That unreasonableness is amplified when the reasons for making the second application, which are not disputed, are taken into account.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Somerset Council shall pay to Wildstone Estates Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Somerset Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Boughton

INSPECTOR