



Costs Decision

Site visit made on 30 July 2024

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Costs application in relation to Appeal Ref: APP/U4230/W/24/3341774 Peel Park Temp, Land off Kenyon Way, Little Hulton, Manchester M38 0BU

- 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 Salford City Council for a full award of costs against EE UK Ltd & Hutchison UK Ltd,
 - The appeal was against the refusal of planning permission for temporary telecommunications installation and associated ancillary works.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. An appellant is at risk of an award of costs being made against them if the ground of appeal had no reasonable prospect of succeeding, relating to the substance of the matter. This may occur when the development is clearly not in accordance with the development plan, and no other material considerations such as national policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
4. The appellants have provided a detailed appeal statement, considering their proposal in relation to development plan policies and national guidance on telecommunications. Moreover, they consider that facilitating the delivery of what is seen by Government as a key part of the economic growth strategy for the UK would amount to special circumstances so as to allow the appeal. Whilst I have disagreed with the appellants, nonetheless I am confident that they advanced material considerations to justify their view that the appeal should have been allowed.
5. Whilst I have dismissed the appeal and consider that the appellants provided limited evidence to indicate that a permanent solution had been sought, or to ascertain whether the appeal site is the most appropriate location for the installation, I do not consider that the appellants would have considered that their appeal had no reasonable prospect of success, particularly in light of the previous grant of a temporary permission.

6. The Council makes reference to an appeal¹ for a smaller mast at the site which was refused. The Council considers that this proposal was smaller and set further back from Kenyon Way, but was deemed unacceptable due to its impact on the character of the area. They therefore consider that it was unreasonable to argue that this appeal proposal would have less impact on the character of the area than the mast dismissed at the earlier appeal. However, I note from that appeal decision that the Inspector was concerned that there would be two masts at the site if they allowed the appeal, and that the proposal would result in substantial visual clutter and harm to the character of the area due to the collective presence of their being two masts on site, with the proposal being visually intrusive when read with the existing installation. This appeal relates to the retention of one mast. As such I do not find the appeals to be directly comparable and do not consider that the appellants were unreasonable in not taking this decision into account when submitting their appeal.
7. With the above in mind, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified in this instance.

L C Hughes

INSPECTOR

¹ APP/U4230/W/21/3284853