



Costs Decisions

Site visit made on 5 September 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2024

Costs applications in relation to:

Appeal A Ref: APP/W1525/H/23/3333319

Appeal B Ref: APP/W1525/W/23/3333317

Pavement Outside 217 Moulsham Street CM2 0LR

- The applications are 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 applications are made by Chelmsford City Council for a full award of costs against Mr Nathan Still of Infocus Public Networks.
 - Appeal A was against the failure to grant express advertisement consent for a single portrait display the size of a six sheet advertisement that is internal lit LCD screen and used to display static images that change every ten seconds.
 - Appeal B was against the failure to grant planning permission for the installation of a multifunctional communication hub with integral defibrillator and the display of an advertisement.
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Costs Decisions – Appeals A and B

1. The applications for an award of costs are refused.

Reasons

2. 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. The PPG further specifies that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. This could be the expense of the entire appeal or other proceeding or only for part of the process.
4. The PPG advises that an appellant is at risk of an award of costs if the appeal or ground of appeal had no reasonable prospect of succeeding. Examples of such occurrences include:
 - a) if the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence; or
 - b) if the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was

unacceptable and circumstances have not materially changed in the intervening period.

5. The Council has presented details of an appeal dismissed in 2020¹, arguing that the similarities to the current scheme are sufficient to meet the above criteria for unreasonable behaviour.
6. In dismissing the 2020 appeal, my colleague ultimately reached the same conclusion as I have in my accompanying appeal decision. The appeal sites are near one another, and the proposals are of similar scale and nature. However, subtle differences in the size, siting and nature lead to more significant distinctions when assessed as a whole. Notably, the 2020 proposal was for a double-sided digital advertisement, whereas the current scheme includes communications infrastructure on one side of the installation. As such, the considerations attached to the respective schemes as a whole differ.
7. While there are some parallels between the two schemes, I also find material differences between them. Therefore, I am not convinced the appellant has behaved unreasonably by pursuing these appeals.

Conclusion

8. Based on the information before me, I find no evidence of unreasonable behaviour by the appellant that resulted in unnecessary or wasted expense for the Council during the appeal process, as set out in the PPG. The applications for an award of costs are therefore refused.

P Storey

INSPECTOR

¹ APP/W1525/W/19/3241891