
Costs Decision

Site visit made on 17 December 2019

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 April 2020

Costs application in relation to Appeal Ref: APP/V4305/W/19/3230913 Land west of Coopers Lane, Knowsley Industrial Park, Kirby L33 7UB

- 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 EG Group for a full award of costs against Knowsley Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for redevelopment to provide petrol filling station, drive through café and drive through restaurant, together with access, landscaping and various other infrastructure works.
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Decision

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

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 appellant has sought costs in relation to the Council's behaviour in dealing with the planning application by failing repeatedly to work pro-actively with the appellant over the 15-month determination period. During this period the appellant contends there were no substantive reasons preventing determination of the proposal or for better communication so that the appeal could have been avoided.
4. The appellant has also sought costs since they assert the proposal is policy-compliant, in particular with Policy CS4 of the Knowsley Local Plan Core Strategy (2016). They also suggest the Council's case for loss of employment land was not backed up by empirical evidence.
5. There is no doubt that the period taken for determination of the planning application was excessive although, as the Council have pointed out, they were not responsible for all of the delays. I note, as an example, that the appellant did not pursue the Council following the email dated 13 July 2018 concerning a proposed meeting on 18 July 2018 until the email trail resumed again on 8 January 2019. This email started to press the Council for a decision to be made. This helps explain 6 months of the determination period. It may illustrate a breakdown in communication/ negotiation but it seems to me that the appellant should bear some responsibility for the delay.

6. In respect of policy compliance my appeal decision explains my interpretation of the position. However, I would not agree that the policy position is so clear-cut that the Council adopted a wholly unreasonable approach. Both parties have relied on other appeal decisions to support their respective cases but, as the evidence demonstrates, these do not always establish the necessary degree of clarity. Far more important, in my mind, are the actual circumstances appertaining to the proposal under consideration.
7. As I note in my decision, the absence of up-to-date empirical evidence on the supply of employment land was the choice of the Council and the absence of that information did not prevent me coming to my decision.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

David Carter

INSPECTOR