



Costs Decision

Site visit made on 3 April 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 May 2024

Costs application in relation to Appeal Ref:

APP/U4610/W/23/3332470/143

Walsgrave Services Station, Hinckley Road, Walsgrave, Coventry CV2 2QN

- 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 Motor Fuel Group for a partial award of costs against Coventry City Council.
 - The appeal was against the refusal of planning permission for creation of three jet wash bays, erection of air/water and vacuum unit, erection of plant room and associated landscaping and forecourt works.
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Decision

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

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. Paragraph 047 of the PPG¹ indicates that local planning authorities will be at risk of a procedural award being made against them for, amongst other things, introducing fresh and substantial evidence at a late stage necessitating extra expense for work that would not otherwise have arisen.
4. The applicant claims, in summary, that the Council acted unreasonably in introducing Policy H5 of the Coventry City Council Local Plan, adopted 2017 (LP) as part of the appeal proceedings. Moreover, the applicant claims that Policy H5 is not relevant to the determination of the appeal and the Council has not justified the relevance of Policy H5.
5. The Council, although advising that Policy H5 of the LP was relevant when questioned, have now confirmed that this was an error and that Policy H5 is not relevant to the appeal.
6. Policy H5 of the LP relates to Managing Existing Housing Stock and seeks to renovate and improve existing housing, in association with the enhancement of the surrounding residential environment, supports the conversion of buildings to residential use and supports redevelopment schemes where the existing housing stock does not meet local market needs. As detailed in my formal decision, there is nothing within Policy H5 of the LP of relevance to the

¹ Paragraph: 047 Reference ID: 16-047-20140306

consideration of the main issues. Neither is Policy H5 of the LP relevant to the Council's reason for refusal.

7. On the basis of the above, the Council clearly introduced fresh evidence at a late stage, albeit that they have now accepted the error. Moreover, there is a clear failure of the Council to substantiate its reason for adding Policy H5 of the LP and an acceptance that this was an error.
8. The applicant, therefore, had to respond to the addition of the policy and this led to unnecessary and wasted expense. For this reason, I conclude that the Council has behaved unreasonably in this matter.
9. Whether the extent of the appellant's response is justified or not is not a matter for me to consider. How much time and, therefore, the extent of the costs incurred is a matter for discussion between the parties.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the need for the applicant to deal with the issues raised through the introduction of Policy H5 of the LP and a partial award of costs is therefore warranted.

Costs Order

11. 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 Coventry City Council shall pay to Motor Fuel Group, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to Policy H5 of the LP. Such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to the 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.

K Townsend

INSPECTOR