



Costs Decision

Site visit made on 22 May 2024

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 June 2024

Costs application in relation to Appeal Ref: APP/ M4320/X/23/3328561

Land at Powderworks Lane, Melling, Liverpool L31 1AU

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Gary Cringle for a full award of costs against Sefton Metropolitan Borough Council.
 - The appeal was against the refusal of an application for an LDC for 'B8 – Storage or Distribution'.
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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. The enforcement notice dated 13 November 2020 is not relevant to the appeal and it is the Appellant, not the Council, who has failed to provide any information illustrating industrial use of the land. Instructing several professionals to act on his behalf is a choice made by the Appellant and does not, at all, constitute unreasonable behaviour by the Council.
4. The several professionals, in fact, have provided a confused case both to the Council and at appeal stage. The application sought an LDC for 'B8 – Storage or Distribution' but also referred to industrial use of the land, these being two different uses under the provisions of the Town and Country (Use Classes) Order 1987 as amended. This confused case was carried forward in the appeal. There is no evidence to support the claimed industrial use of the land whereas there is compelling evidence that the lawful use of the land is storage.
5. The Council, rightly, did not apply planning policy in their determination of the application because planning policy is not relevant to consideration of the lawful use of land, they did not apply a test higher than on the balance of probability, and they gave no weight to the location of the land within the Green Belt. The Council has not acted unreasonably and the Appellant has not therefore incurred unnecessary expense. An award of costs is not justified.

John Braithwaite

Inspector