
Costs Decision

Site Visit made on 22 June 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2022

**Costs application in relation to Appeal Ref: APP/C3430/W/22/3292837
Land West of Wolverhampton West Primary Substation, South
Staffordshire Railway Walk, Wolverhampton, WV4 4XX**

- The appeal is made under section 78 of 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 Balance Power Projects Ltd against the decision of South Staffordshire District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the construction, management and operations of a battery based electrical storage scheme with associated infrastructure, together with access improvements, internal access tracks, vehicular parking, herringbone filtered drains, security measures and landscaping works.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The application for costs asserts that the Council behaved unreasonably by preventing or delaying development which should clearly be permitted, failing to produce evidence to substantiate its reasons for refusal, making vague, generalised or inaccurate assertions and not determining similar cases in a consistent manner.
3. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. The proposed development would not meet the exceptions for development within a Green Belt, as such, their first reasons for refusal is correct. Additionally, the Planning Committee gave a different amount of weight to considerations when looking at very special circumstances. Whilst it is evident from the main decision that I have disagreed with the Council's reasons for refusal, the Committee Minutes set out an assessment of the indicated harm and how this would conflict with relevant adopted planning policies. Weight is a matter for the decision maker in each case.
4. Accordingly, I do not find that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposal which justified its decision.

Conclusion

5. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR