

Costs Decision

Site visits made on 28 and 29 September 2016

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2016

Costs application in relation to Appeal Ref: APP/D0840/W/16/3146349 Land at Penhalurick Barton, Redruth, Cornwall TR16 6TG

- 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 Solar Tech Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the "Installation of 5 MW ground mounted solar arrays with transformer stations; internal access track; biodiversity improvements; landscaping; fencing; security measures; access gate; and ancillary infrastructure". [The scheme was amended to 3.637 MW]
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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 Council's reason for refusing the application refers to the location of the proposal solar array within an Area of Great Landscape Value (AGLV) and states that the development would lead to a medium magnitude of change and an unacceptable adverse effect upon the character and appearance of the landscape by reason of its size and siting. Members considered that it would appear inappropriate when viewed by a significant number of receptors of varying sensitivity, including those using the local highway network, nearby occupiers, recreational walkers and visitors to Stithians Reservoir.
 4. The Council rightly referred to the AGLV as a material consideration, but did not rely solely on it. Its case was more to do with effects of the proposal on relevant receptors. In this regard the Council's case concerning the effects on the character and appearance of the area did not lack substance. Relevant evidence about the effects on receptors was adduced in the Council's appeal statement. I do not consider that the Council's evidence was vague, generalised or inaccurate. Landscape and visual impact assessment, in the circumstances that apply here, includes an element of subjectivity, about which Members might reasonably, on the basis of their own experience, take a different view to those of their professional advisors. The way the Council dealt with these issues was not unreasonable.
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5. Furthermore, a key part of decision in this case is the balancing exercise between the harm and renewable energy benefits of the scheme. The weight given to the adverse effects in the planning balance is a matter of judgement, and I have come to a different conclusion to the Council. However, I do not consider that it was unreasonable for the Council to exercise its judgement in the way that it did, or to find conflict with national policy on these grounds.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the *Guidance*, has not been demonstrated, and that the application for an award of costs should be refused.

John Woolcock
Inspector