
Costs Decision

Site visit made on 15 August 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 31 August 2017

Costs application in relation to Appeal Ref: APP/X0415/W/17/3174634 Land to the rear of substation, Lycrome Road, Lye Green, Chesham HP5 3LD

- 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 Harmony Energy Storage for a full award of costs against Chiltern District Council.
 - The appeal was against the refusal of planning permission for change of use of land and installation of a series of storage units and associated works to provide a battery energy storage facility, to provide balancing services to the National Grid.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or by making vague assertions about a proposal's impact which are unsupported.
4. The applicant suggests that the Council failed to undertake the required Green Belt balancing exercise as set out in the Framework and furthermore suggests that, as Policy GB2 of the Chiltern District Local Plan makes no reference to this exercise, it is out of date.
5. Firstly, although the balancing exercise is not mentioned in Policy GB2 it is referred to in the explanatory text to this policy. Notwithstanding this, the report refers to the Framework within which the balancing exercise is detailed.
6. Secondly, I consider it is clear in the officer's report that they have correctly carried out the balancing exercise, taking account of all relevant considerations. I note the locational constraints were not explicitly referred to in paragraph 15 of the report, which sets out their balancing exercise. However it would be irrational to believe that they gave no consideration to this

issue in the balance, bearing in mind it was discussed in paragraphs 11 and 12 of the report.

7. I have concluded in my decision that the site does have a rural character in addition to its Green Belt designation. The officer's report correctly assesses the proposal in terms of its impact on the Green Belt, and separately, its effect on the character and appearance of the area. I do not consider this means that the officer has afforded undue protection in respect of the site's landscape character and visual amenity. Moreover I consider the assessment of these impacts can reasonably be undertaken by officers without the need for specialist landscape advice, particularly as the site has no specific landscape designation.
8. In summary, I do not consider it has been demonstrated that the Council acted unreasonably or that it has caused the appellant any unnecessary or wasted expense, as described in the PPG. Consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR