
Costs Decision

Site visit made on 8 February 2021

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Costs application in relation to Appeal Ref: APP/P0119/W/20/3261646 National Grid site, land off Larks Lane, Iron Acton, Gloucestershire

- 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 Mr Guy Manners-Spencer (HD000ACT Limited) for a full award of costs against South Gloucestershire Council.
 - The appeal was against the refusal of planning permission for the installation of 49.5MW gas peaking plant and ancillary development on land adjacent to the National Grid Substation.
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Decision

1. The application for costs is refused.

Reasons

2. 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. The PPG provides 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, or 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.
3. The applicant has stated that there were incidents where the Council Officers were uncontactable through much of the planning application process. It has also been claimed that some of the consultee responses were not uploaded to the Planning Portal or provided directly to the applicant. Such a lack of communication and transparency with regards the planning application would be regrettable, but I am not convinced this would have changed the course of the planning application. This is because the Council found that the development was inappropriate in the Green Belt and that very special circumstances did not exist. Whilst I have come to a different conclusion, I do not believe it was unreasonable for the Council to come to this view.
4. Similarly, it may have been that better communication between the Council and applicant could have meant that the flood risk reason for refusal would have been avoided, but this would not likely have circumvented the need for the appeal due to the remaining Green Belt reason. Furthermore, the additional work done by the applicant to address the Environment Agency initial objection

would have been necessary whether with the planning application or with the appeal. Indeed, I have found that the proposed development would have no harm with regards flood risk.

5. With regards the landscape and visual impact matters, I am not convinced that the applicant could have avoided the character and appearance reason for refusal related to this, even if they had the chance to respond to the Landscape Officer comments. As explained above, this would also not likely have resulted in the appeal being avoided as there was still the Green Belt concerns, where issues such as whether a development is inappropriate and the impact to openness is of particular relevance, amongst other things. The landscape impacts would have some effect on the overall balance, but in my opinion, it is unlikely that a possible lack of landscape harm would have meant that the Council would have decided that very special circumstances exist, based on their submitted comments.
6. Whilst a lack of communication would be frustrating and slow procedures, I am not convinced that the refusal of the planning application and subsequent appeal (with all associated costs) could have been avoided. I am therefore not satisfied that any unreasonable behaviour has led to any additional expense over and above what would have been necessary anyway.
7. Therefore, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

Steven Rennie

INSPECTOR