



Costs Decision

Site visit made on 12 July 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2022

Costs application in relation to Appeal Ref: APP/N2739/W/22/3290256 Land South of Monk Fryston Substation, Rawfield Lane, Monk Fryston, Selby

- 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 HD777FRY Ltd (Mr Guy Manners-Spencer) for a [partial] [full] award of costs against Selby District Council.
 - The appeal was against the refusal of planning permission for installation and operation of a battery storage facility and ancillary development on land off Rawfield Lane, Monk Fryston.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 49 of the PPG.
4. The applicant states that the Council acted unreasonably by dismissing their officer's recommendation of approval and failing to assign weight to the wider environmental benefits associated with renewable infrastructure as required by the National Planning Policy Framework (the Framework). The Committee failed to consider the actual landscape and visual harm and relied on comments for a larger adjacent scheme. It was clear that the visual affects would be materially different to the adjacent scheme.
5. The Council have responded by stating that the Committee expressed a view that it was not an energy production unit and considered that the wider environmental benefits referenced in the Framework that could be considered as Very Special Circumstances were not in place and therefore the benefits of the proposal did not outweigh the harm to the Green Belt.
6. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.

7. I find that the Council reached a rounded view in taking the decision and considered all relevant matters. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states which policies of the development plan that the proposal would be in conflict with. This reason has been adequately substantiated by the Council in its Appeal Statement.
8. This appeal decision is, however, ultimately a matter of planning judgement. The appellant and I may have reached a different judgement to the Council but that does not make the Council's position unreasonable.
9. Accordingly, I do not consider 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 proposed development which justified its decision. The appellant had to address those concerns in any event.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Cooper

INSPECTOR