



Costs Decision

Site visit made on 19 August 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 August 2022

Costs application in relation to Appeal Ref: APP/D3505/W/21/3284011 Land at Churchfield Road, Chilton, Sudbury CO10 0GQ

- 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 Jack Hulme of Balance Power Projects Ltd for a full award of costs against Babergh District Council.
 - The appeal was against the refusal of planning permission for '*development and operation of Standby Energy Generation Facility*'.
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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 Applicant considers that a full award of costs is justified because:
 - (i) the proposal was recommended for approval by the case officer;
 - (ii) that there were no statutory objectors; and,
 - (iii) that the planning committee were advised that a refused scheme would likely go to appeal and the Council was likely to be unsuccessful at appeal.
4. In terms of the recommendation for approval, this is the case officer utilising their professional planning judgement to make a recommendation to the local planning authority's planning committee. The Planning Committee is able, in exercising its local knowledge and taking into account the information presented to them, to take a different view. That is what happened in this instance. There is nothing unreasonable in doing so.
5. Indeed, it appears from the submitted committee minutes that the members undertook a detailed debate weighing the evidence and wrestling with different matters. This led to an evenly balanced set of two votes, where the Chair delivered a casting vote. Again there is nothing untoward or unreasonable in this approach: it is precisely what should occur in local democracy. Whilst the decision was contrary to Officer recommendation, the Council nonetheless provided a reasoned reason for refusal of permission and continued to provide an objectively planning-based case at appeal.

6. Whilst it is true there were no statutory objections to the proposal, it does not follow that the Planning Committee should have automatically granted permission. Its role is to determine the planning merits, just as the appeal decision does, and then come to a reasoned decision.
7. I acknowledge the advice or guidance given to the Planning Committee in terms of the likelihood of the refused scheme going to appeal and the odds of it being granted in light of other schemes of a similar nature. Whilst the planning appeal decision has found in favour of the Applicant, that is not a forgone conclusion. Furthermore, it is entirely right that the Council's professional officers provide such information to the Committee. These were matters that had been highlighted by various planning professionals and it was correct that they made members aware of their significance in considering planning matters.
8. Nonetheless, this does not bind the Committee to making a decision one way or another. Moreover, there appears to be nothing irrational or unreasonable in which the Planning Committee debated and assessed the merits of the proposal in a public forum where both the Appellant and interested parties were not only able to provide oral statements but also answer questions from the committee members.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Parker

INSPECTOR