



Costs Decision

Hearing held on 13 August 2024

Site visit made on 13 August 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2024

Costs application in relation to Appeal Ref: APP/E2530/W/24/3342782 Land south of Tinwell Road, Stamford, PE9 2JL

- 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 Osprey Charging Network Ltd for a full award of costs against South Kesteven District Council.
 - The appeal was against the refusal of planning permission for a 16 bay electric vehicle charging station with ancillary provisions and associated infrastructure works.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The application for costs contends that the Planning Committee (PC) acted unreasonably in overturning the officer recommendation that the application be approved. It is alleged that in doing so, the PC ignored the objective assessment of the evidence before it, which demonstrated that the scheme complied with the Development Plan and National Policy when taken as a whole.
4. There is no compelling evidence before me that the PC ignored the assessment set out in the report. On the contrary, it is apparent from the minutes that before reaching its decision the proposal was thoroughly debated, and careful consideration was given to the supporting evidence and to the Officer report.
5. The decision of the Committee to overturn the officer recommendation and the extent to which the proposal was compliant with policy, and which policy, was a matter for its judgement. I am satisfied that a substantive and reasonable case based on relevant planning considerations was put forward by the Council, and the level of weight given to the identified elements of harm has been clearly reasoned.
6. Consequently, the evidence does not persuade me that the Council prevented or delayed development which should clearly have been permitted. Furthermore, I do not consider that the assertions about the proposal's impact to be unsupported by objective analysis, vague or unbalanced. While I reached a different conclusion, the Council had reasonable concerns about the impact of

the proposed development, and I am satisfied that these concerns justified its decision.

7. Pre-application engagement, and the withdrawal of a planning application to enable the amendment of a proposal, are part of normal planning procedures. Whilst elected members were involved in this process, and the pre-application response was positive, this does not oblige the PC to grant planning permission. Members are entitled to take a contrary view.
8. In addition, the absence of comments from the Designing Out Crime Officer (DOCO) and the Lincolnshire Fire and Rescue Service did not prevent the Council from reaching a reasoned conclusion on the issue of crime and the fear of crime. Even if the comments of such bodies were available to the PC when it determined the application, it is apparent that it would still have pursued its concerns about crime and the fear of crime in its reason for refusal.
9. I do not accept that the absence of the applicant's agreement to a pre-commencement condition prevented the PC from imposing a condition relating to security measures. Nevertheless, and notwithstanding that I do not consider that a pre-commencement condition is justified, I do not find the Council to be at fault for not deferring its decision so that it could obtain advice from such bodies. Nor do I find fault in the raising of concerns about the potential of the development to result in crime and the fear of crime, as it was a legitimate exercise of planning judgement. Whilst I note the absence of a suggested condition by the Council relating to security measures, this does not materially undermine its position in this regard.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Elaine Moulton

INSPECTOR