



Costs Decision

Site visit made on 15 January 2025

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2025

Costs application in relation to Appeal Ref: APP/W1145/W/24/3353044

Land at Deptford Farm, Ebberley Hill, near Great Torrington, Devon

- 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 Ms Grainne O'Loughlen, Elgin Energy EsCo Ltd for a full award of costs against Torridge District Council.
 - The appeal was against the refusal of planning permission for Construction and operation of a grid-connected solar photovoltaic farm, incorporating battery storage, with infrastructure, landscaping and biodiversity enhancements.
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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. The applicant considers that the Council acted unreasonably by taking a contrary view in their appeal statement to that of the Planning Officer's Committee Report; introducing the issue of site selection with regards to the alleged loss of agricultural land; and, by not expanding on its reasons for refusal or providing any additional information in its appeal statement, not defending its decision to refuse planning permission.
3. I have noted details in the Committee Report, the recommendation of the Council's Officers and the minutes of the Plans Committee meeting where the planning application was considered by Members. However, Members are not required to accept the professional advice of Officers so long as a case can be made for the contrary view.
4. In this case, the Council's refusal reason is complete, precise, specific and relevant to the proposed development. It details the alleged harm, the Council's position – following Members' discussion and vote at the Plans Committee – that the harm is not outweighed by the scheme's benefits, and the local planning policies that Members consider the development conflicts with.
5. Although putting forward a contrary case to the Committee Report, the Council's appeal statement subsequently expounds, albeit briefly, upon the refusal reason and the Council's concerns with the appeal proposal. Whilst the matter of site selection with respect to agricultural land was not referenced in the refusal reason or committee meeting minutes, it is clearly a relevant matter in relation to the topic; and the available evidence indicates that agricultural land was discussed at the Plans Committee meeting. In addition, the applicant's documents submitted in

support of the planning application did cover site selection in relation to agricultural land. Whilst Officers accepted that position, it was not therefore unreasonable of the Council to refer to the matter in its appeal statement.

6. Whilst Officers recommended approval, the Committee Report identified that the proposed development would result in some harm (including to the landscape) and conflict with various local planning policies. The recommendation to approve was therefore based on a balanced judgement that the benefits of the proposed development outweighed the harm identified. However, as established by the courts, the weight to be given to a particular consideration is a matter for the decision maker's discretion.
7. Members were therefore entitled to come to a different view that the scheme's benefits did not outweigh the harm; and the Council's appeal statement details clearly that the Plans Committee took a different view to Council Officers with respect to the overall balance between the scheme's alleged harm and benefits. Contrary to the Committee Report conclusion on page 21 that the development would not result in a harmful loss of such land, the Council's appeal statement also sets out that Members clearly considered there would be a loss of a high proportion of best and most versatile agricultural land; and that the site justification was insufficient in Members' views to judge that the scheme's benefits outweighed this.
8. Even though I have come to a different view to the Council, its submissions are therefore sufficient to substantiate its decision to refuse planning permission. The Council's appeal statement lacking in additional information and direct responses to the applicant's appeal statement do not lead me to a different conclusion.
9. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated and an award of costs is not warranted.

T Gethin

INSPECTOR