



Costs Decision

Site visit made on 30 January 2025

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th February 2025

Land off West Leake Lane, Ratcliffe, Nottingham NG11 0DP

Costs application in relation to Appeal Ref: APP/P3040/W/24/3352048

- 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 Sandbrook Capital Bes Ltd for a full award of costs against Rushcliffe Borough Council.
- The appeal was against the refusal of planning permission for a Battery Energy Storage Facility.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) explains that parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. Unreasonable behaviour can be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. In this case, the appellant has sought a full award of costs against the Council on both grounds. Firstly, this includes the substantive matter of potentially 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. Secondly, that the Council were procedurally wrong in introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
4. On the first matter, the planning application was referred to the Council's planning committee for determination with a recommendation to approve, subject to conditions. As such, the officer's report is supportive of the scheme. The application was subsequently refused by the committee, with the reasons for refusal given in the decision notice. The reason given is somewhat wordy and from my reading gives two separate reasons in one, although it does reference the relevant policies of the development plan and explain its rationale sufficiently.
5. As the applicant points out, the committee is entitled to come to their own view, although it is expected that when deviating from the recommendations of appointed experts such as planning officers, that its reasons are robust and substantiated. Although I have disagreed with the decision and allowed the appeal, the Council's

appeal statement of case substantiates these reasons for refusal and from my reading engages with matters such as exceptions to inappropriate development in the Green Belt, compliance with the purposes of the Green Belt, impacts on openness which is broken down into visual and spatial aspects and landscape and visual impacts. Although the applicant also feels that the level of harm is not quantified, this is given in the reason for refusal as 'substantial'. This adheres to the National Planning Policy Framework paragraph 153 whereby any harm to the Green Belt should be given substantial weight. Although it can be good practice to quantify individual harms, any harm will be worthy of at least substantial weight in this approach.

6. While there is clear need for this type of development, such as measures outlined in the Government's aims to achieve Net Zero, and the Council's own policies provide strong support for such schemes, they are still invariably subject to a planning balance. The various harms are generally clarified and there is acknowledgement that there would be benefits of the proposal, but that these are not sufficient to outweigh the harm. This is a subjective assessment and judgements will invariably differ, although the rationale should be clear and comprehensible.
7. Based on the foregoing, I find that unreasonable behaviour has not been demonstrated with regards to the first ground and that this has not caused the applicant to incur unnecessary or wasted expense in the appeal process.
8. Turning to the second ground of the costs application, it is alleged that the Council introduced substantial evidence at a late stage in the appeal process which has necessitated additional work and expense. However, as the Council has pointed out, the applicant first introduced the Alternative Site Assessment in their appeal statement, first referencing this at paragraph 7.47. Although I understand that this was introduced with the intention of justifying the location of the appeal site in relation to the Green Belt, it stands to reason that the Council would address this matter in their appeal representations response. This response was then in turn responded to by the appellant, which may have led to significant additional work to address this matter. However, the *introduction* of said matter was first made by the appellant.
9. Taken together, this refusal of planning permission was ultimately the result of a fundamental disagreement between the parties which could have only been resolved by way of an appeal.

Conclusion

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C McDonagh

INSPECTOR