



---

## Costs Decision

Hearing held on 25 March 2025

Site visit made on 25 March 2025

**by S Harrington MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 02 May 2025**

---

### **Costs application in relation to Appeal Ref: APP/Y3940/W/24/3357286**

- 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 Penso Power Limited for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for installation of a Battery Energy Storage System (BESS) together with associated ancillary infrastructure, equipment and access arrangements.

**Land at Stonehill, Minety, Wiltshire SN16 9DX**

---

### **Decision**

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

### **The submissions for Penso Power**

2. The costs application was submitted in writing. Additional points were made orally during the Hearing. These included the misunderstanding of Members in applying weight during decision making, resulting in unreasonably preventing or delaying development that should have been permitted, as well as the closeness of parties' landscape evidence.

### **The response by Wiltshire Council**

3. The response was made in writing. The following additional points were made orally during the Hearing that there was no misunderstanding; Planning Practice Guidance (PPG) is clear on weight that should be afforded; there was clear conflict with the development plan and objection from the Landscape Officer; There was a balanced recommendation before Members; and Members made a reasoned judgment in the overall planning balance that the conflict with the development plan outweighed the benefits.

### **Reasons**

4. Parties in planning appeals normally meet their own expenses. However, the 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.
5. The applicant's principal ground for an award of costs is that the Council's decision prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. It is stated that Members placed too much weight on the consultation responses of the Landscape Officer.

6. I have noted the Council's Committee Report (CR), 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.
7. The Council's refusal reason is complete, precise, specific and relevant to the proposed development. It details the alleged harm, and the local and national planning policies that Members considered the development conflicts with.
8. Although Officers recommended approval, the CR identified that the proposal would result in landscape and visual impacts, alone and in combination with other developments in the area, with subsequent conflict with policies of the development plan. The recommendation to approve was therefore based on a balanced judgement that the benefits of the proposal outweighed the harm identified. However, the weight to be given to a particular consideration is a matter for the decision maker's discretion.
9. As decision maker, Members are entitled to come to a differing view in relation to the weight afforded to considerations to that of Officers. The Committee minute outlines that Members considered key considerations of the proposal, in light of the CR which was before them and provided comprehensive details on local and national policy, material considerations, and the associated benefits. The Councils' submissions indicate that Members discussed the planning balance at length prior to determining that the balance did not weigh in favour of the application.
10. Acknowledging the differences between the parties' landscape evidence, and notwithstanding my findings on degree of harm to landscape within the main decision, it is clear that there is a level of harm to the character and appearance of the area. Members were entitled to afford this harm weight as they saw fit based on the evidence before them. It has not been clearly demonstrated that the weight they afforded was so excessive as to be unreasonable given their judgement of the landscape harm and conflict with the development plan as articulated within the decision notice.
11. Therefore, even though I have come to a differing view to the Council in the main appeal, its submissions are sufficient to substantiate its decision to refuse planning permission. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*S Harrington*

INSPECTOR