
Costs Decision

Hearing held on 18 June 2025

Site visit made on 18 June 2025

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2025

Costs application in relation to Appeal Ref: APP/Z2260/W/25/3361310

Land North of Sackett's Hill Farm, Sackett's Hill, Broadstairs, Kent, CT10 2QS

- 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 Greenfield Co for a full award of costs against Thanet District Council.
 - The appeal was against the refusal of planning permission for erection of a 22 MW Battery Energy Storage System (BESS) together with access, hard and soft landscaping and associated infrastructure.
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Decision

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

The submissions for Greenfield Co.

2. The costs application was made orally at the hearing but also submitted in writing during the hearing to enable the Council to respond.

The response by Thanet District Council

3. The response was made orally at the hearing.
4. The Council considers that its interpretation that the proposal with a lifespan of 40 years would have an irreversible impact was fair due to the timescales involved with the project.
5. There was uncertainty about the search area provided with the application due to the lack of information regarding the connection point and this information was required. The Council did review its case when further information was provided and therefore behaved reasonably.
6. This is further evidenced from its decision to amend its case as part of the appeal, in particular with regard to the second and third reason for refusal.
7. In considering the second reason for refusal, concerns were raised by consultees and additional information was required and it was reasonable that this formed a reason for refusal. The Council reviewed its case as part of the appeal.
8. With regard to the third reason for refusal, Kent Fire and Rescue requested additional information and even if this could have been secured by planning condition it would still have been required and therefore there has not been added costs to the appellant associated with this request.

9. The Council does not consider it has acted unreasonably.

Reasons

10. 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.
11. It states examples of unreasonable behaviour include (i) 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; (ii) failure to produce evidence to substantiate each reason for refusal on appeal and (iii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
12. Therefore, the first issue is whether the Council have provided sufficient evidence to substantiate their reasons for refusal at appeal. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Thanet Local Plan that the proposal would be in conflict with. The reasons have been adequately substantiated by the Council in its appeal statement.
13. However, with regard to whether the development should have been clearly permitted and whether the proposals impacts were supported on objective analysis and whether the development could have been granted with the imposition of a suitably worded condition are more fundamental in whether the Council acted unreasonably in refusing planning permission.
14. The Council has taken time to review the appellant's evidence, submitted at appeal, and responded to it. Therefore, it is clear that the reasons for refusal have been fully considered and the Council decided it would continue to defend its concerns in relation to its first reason for refusal, whilst accepting that the evidence provided enabled them to withdraw their second and third reason for refusal. They attended the appeal and took part fully in proceedings.
15. The applicant has also raised a concern that there was a delay in the Council considering the additional evidence submitted at appeal and the time taken for this to be uploaded to the Council's website and for further consultation to take place. However, there was no delay to the hearings proceedings as a result of this and the Council had raised their concerns at an early stage with the Planning Inspectorate. Unfortunately, the timetable for appointing an Inspector to consider the Council's request resulted in a delay in responding to those concerns and confirming that consultation should take place on the additional evidence. This was not unreasonable behaviour on the part of the Council.
16. There was a delay in the Council finalising the Statement of Common Ground, however this was received in advance of the hearing opening which enabled the Inspector to have regard to its findings and tailor the event to those matters in dispute. It is not considered additional costs arose as a result of this delay, as the appellant would have needed to engage with the Council throughout the appeal process to finalise its statement of common ground.

17. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that in exercising their planning judgement the Council had reasonable concerns about the impact of the proposed development which justified its decision.
18. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

G Pannell

INSPECTOR