



Costs Decision

Hearing held on 2 July 2025

Site visit made on 1 July 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Costs application in relation to Appeal Ref: APP/C3240/W/25/3362344

Land off Buildwas Bank, Telford TF8 7EH

- 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 Lower Coalmoor BESS Limited for a full award of costs against Telford and Wrekin Council.
 - The appeal was against the refusal of planning permission for the erection of a battery energy storage system including access track, CCTV and light poles, car parking spaces, perimeter fencing and gates, and associated infrastructure.
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Decision

1. The application for an award of costs is allowed, in part, in the terms set out below.

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 appellant seeks a full award of costs. They consider that the Council prevented development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and other material considerations.

Land Stability

4. I recognise the Committee Members' combined longstanding and broad knowledge of the wider area's land instability issues, and it is clearly essential to protect against any failure of the Ironbridge Gorge. However, I see no rationale for this refusal reason being made contrary to the lack of objections from the relevant statutory and internal consultees, based on their professional consideration of the highly technical evidence.
5. The level of information submitted thus far was appropriate for the stage of the proposal reached, and in accordance with that identified as necessary by the development plan and wider policy framework. I note that the proxy demonstration of long-term stability by the pylon appears to have only been specifically highlighted at the hearing, but an absence of identified structural issues with the pylon can be inferred within the evidence.
6. The Council provided no adequate reasoning as to why the required further site investigation works could not be undertaken and controlled via conditions in this

instance. If those works ultimately find the underlying geology to be unsuitable for the proposal, with no mitigation available, it would not proceed and so no harm would arise. It was therefore unreasonable of the Council to refuse the application on land stability grounds.

Community Participation

7. The Council confirmed at the hearing that the policy conflict only related to the extent of community participation. This should have been made clear on the decision notice, to save the applicant having to also consider community ownership.
8. The Council's Statement of Case states that the Parish Councils' objections alone indicates that the community participation/ownership of the scheme was not fully demonstrated, as the concerns raised were insufficiently addressed. This gives unwarranted status to such objections with no policy basis. At the hearing, the Council's approach to this was tempered slightly in that the reason for refusal related to insufficient public consultation having been undertaken.
9. However, Policy ER1(v) does not state that outstanding objections or a lack of consultation results in conflict with it, only that community participation acts to increase the weight to be given to a proposal's social and economic benefits. It was therefore unreasonable of the Council to refuse the application on grounds of a lack of community participation/ownership.

Heritage

10. The consideration of the proposal's impact upon the setting of the Ironbridge Gorge WHS and the Ironbridge Gorge Conservation Area (CA) is a matter of planning judgement, and very nuanced in this instance. The extent to which this is weighed against the proposed benefits is also a matter of planning judgement. I agreed with the Council that the site lay in the setting of the designated heritage assets, and that there would be harm to those assets and to the character and appearance of the area.
11. Although I found this harm would be limited or very limited, and ultimately outweighed by the proposed benefits, this reason for refusal was therefore not unreasonable overall on this basis.
12. Similarly to my consideration of why conditions would be appropriate for land stability matters, I see no reason why conditions could not be used to determine the precise landscaping details, including additional planting if deemed necessary. Nonetheless, as the appellant's responses to the matter of landscaping conditions was inherently bound up with their need to respond to heritage matters overall, I find no costs are warranted in relation to this matter.

Conclusion

13. Overall therefore, for the reasons given above, unreasonable behaviour has occurred in respect of evidence relating to refuting the reasons for refusal for land stability and community participation. This has resulted in unnecessary or wasted expense for the appellant in refuting these elements through an appeal.
14. A partial award of costs is therefore warranted on this basis.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Telford and Wrekin Council shall pay to Lower Coalmoor BESS Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in refuting the reasons for refusal relating to land stability and community participation; such costs to be assessed in the Senior Courts Costs Office if not agree.
16. The applicant is now invited to submit to Telford and Wrekin Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L N Hughes

INSPECTOR