



Costs Decision

Hearing held on 4 November 2025

Site visit made on 4 November 2025

by Melvyn Middleton BA(Econ), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2026

Costs application in relation to Appeal Ref: APP/V0728/W/25/3365771

Boundary Road West , Wilton International , Middlesbrough, Cleveland, TS6 8JH

- 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 CSG for a full award of costs against Redcar and Cleveland Borough Council.
 - The appeal was against the refusal of planning permission for a Hazardous Waste to Energy Process Plant.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the National 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. It also makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised, or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Whilst a Council Committee is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council must demonstrate, on planning grounds, why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. However, and this is the key point, the Committee has to have a reasonable basis for departing from the recommendation and the reasons for refusal need to stand up to scrutiny on their planning merits.
5. The officers report to the Council Committee, following an extensive analysis and consideration of the matters that concerned the application, concluded that the proposal complied with a raft of policies within the Redcar and Cleveland Local Plan 2018 (LP). The application was recommended for approval subject to eighteen conditions. Some of these were needed to mitigate harms that would otherwise result from the proposal, but the conclusions do not refer to any policy that subject to mitigation, the officers considered the proposal to be contrary to. In consequence the recommendation was not one based upon a balancing exercise between competing considerations, to which varying weights had been given and leaving room for reasonable disagreement.

6. Moving to the Committee's decision to refuse planning permission, it is clear that members have the discretion to make a decision contrary to the recommendation of their officers. The matter of concern to the Committee, as reflected in the reason for refusal "too many incinerators in the area when considered with existing and proposed developments", is allegedly supported by the National Planning Policy Framework and LP Policies SD4 and SD6. However, there was no objective analysis of this consideration, either at the time of the Committee decision or subsequently. After the Appellant made the appeal, the Council withdrew its reasons for refusal and apart from discussing conditions at the Hearing and attending the site visit, it took no further part in the appeal, not even responding to a request from myself to clarify the reason and the policy justification in the decision.
7. In this case the members disregarded the advice of officers, whose opinion was that the application should be approved subject to a substantial number of conditions, many of them mitigating harms that could otherwise result from the development.
8. Fundamentally, this proposal affects a site that is allocated (Policy ED 6) for special uses such as heavy processing industries. The appeal proposal is such an industry. When making a planning application the Appellant would clearly have been under the impression that a Hazardous Waste to Energy Process Plant, on this site, would be acceptable in principle but that it would be necessary to discuss detailed conditions with the Council to mitigate inevitable potential harms that often come with such development.
9. In proposing Wilton International as a suitable site for special uses, nowhere does Policy ED 6 make reference to any capacity limits for special uses. Policy SD 4 discusses general development principles and lists eighteen criteria that new development is expected to meet. Other than referring to an appropriate mix of uses, the policy does not even hint at the need for capacity limits on energy from waste plants. Similarly, Policy SD6, which is specifically about renewable and Low Carbon Energy schemes, of which the appeal proposal is one, sets out eleven considerations under which proposals will be considered. Apart from a reference to the cumulative impacts of proposals, there is again no reference to capacity limits. There is also no reference to cumulative impacts that are not capable of resolution through mitigation by condition in the Committee report or the decision.
10. Further to this, there is already an extant planning permission to process hazardous waste on this site. Although currently dormant, some plant and equipment that will be extended to enable a more sophisticated use of the site, already exists. Technically the appeal proposal is not a completely new hazardous waste plant.
11. Following the announcement of the appeal, a number of representations were received from third parties. Whilst the Council, through its withdrawal did not directly cause them to participate in the Hearing process, the Council's actions had already given most of them the opportunity to participate before the withdrawal. If the application had not been refused there would not have been an appeal and no third parties wanting to participate.
12. The Council has argued that the application was supported by an extensive amount of supporting material which has been transferred to the appeal and that in consequence the Appellant need not have encountered significant costs in engaging with the appeal process. Whether or not that is the case is debatable, but it is undisputable that as a

direct result of the Council's actions, there was an appeal. The Appellant inevitably had to prepare for this and attend a public Hearing to discuss the contested matters. The assertions raised by the Council in its decision notice, some of which were advanced by third parties along with other points that they raised, all needed to be addressed. Some cost, incurred by the Appellant must inevitably be attributable to this work. The fact that the Council's reason for refusal was vague, and absent of any clarification from the Council, at an early date, as to the exact meaning, must have added further to the Appellant's uncertainty and resultant costs.

13. Overall, it is clear that the authority acted unreasonably in refusing planning permission in the first instance, as demonstrated by its subsequent decision not to contest the appeal. None of the matters put forward by the authority in defence of the costs application (either individually or cumulatively) justifies its position.
14. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order [where awarding costs]

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 Redcar and Cleveland Borough Council shall pay to CSG, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
16. The applicant is now invited to submit to Redcar and Cleveland Borough 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.

Melvyn Middleton

INSPECTOR