



Costs Decision

Site visit made on 14 May 2024

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2024

**Costs application in relation to Appeal Ref: APP/B5480/W/21/3289582
The Refuse Container Unloading Jetty, Rainham Landfill Site,
Coldharbour Lane, off Ferry Lane, Rainham**

- 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 the Council of the London Borough of Havering for a full award of costs against Land and Water Remediation Limited.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the variation of Condition no. 3 of Planning Permission P0995.17 dated 2 February 2018.
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Decision

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

Preliminary Matters

2. A separate appeal¹ for the non-determination of a planning application for works at the Rainham Lagoons restoration project was made by the appellant. However, on 4 April 2022, this appeal was withdrawn by the appellant, seemingly at the request of the Council. The Council makes reference to this appeal in their costs application, but has mistakenly used the appeal reference for the appeal I determined in my main decision, listed in the banner heading above.

Reasons

3. 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.
4. The Council considers the appellant has deliberately concealed relevant evidence; has delayed or failed to provide requested evidence; and, in relation to appeal Ref. APP/B5480/W/21/3289583, has withdrawn the appeal at a late stage in the process.
5. The appellant disputes the Council's grounds for an award of costs.

Deliberate concealment

6. Similar to the issue of procedural validity, which I addressed in my main decision and do not repeat here, the Council has drawn flawed conclusions with regard to deliberate concealment. The alternative referenced proposal and the parameters of the Waste Management Licence said to have been issued by the

¹ Ref. APP/B5480/W/21/3289583

Environment Agency are separate matters of no relevance to the appeal proposal. The Council has also misread the scope of the original planning permission, which is far wider than they claim.

7. The Council's position is thoroughly confused and without merit. I find no evidence of deliberate concealment of any relevant information and so no unreasonable behaviour by the appellant in this regard.

Delay / failure to provide evidence

8. This was an appeal against the Council's failure to determine the application within the appropriate period. With regard to the lack of information provided, I note the Council claims that, amongst other things, this was something that prevented them from determining the application.
9. The information provided by the appellant with the application was very limited. However, and despite the references made by the Council to requests to provide missing information², no evidence of these requests is before me.
10. Consequently, I find no evidence of unreasonable behaviour in the appeal process, in this regard.

Late withdrawal

11. The appellant withdrew the aforementioned appeal, as the Council requested, and has provided evidence of this. The appellant also states they withdrew that appeal at the earliest opportunity after the Council notified them the proposal would not require planning permission.
12. The Council has provided no evidence of their request for the other appeal to be withdrawn, including the date when this request was made, or any deadline set for compliance with the request.
13. Consequently, there is no evidence the appellant behaved unreasonably in withdrawing the other appeal.

Conclusion

14. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not been demonstrated and so an award of costs is not justified.

Andrew Parkin

INSPECTOR

² Paragraphs 6.16 and 6.17 of the Council's Statement of Case