



Costs Decision

Inquiry held on 4 June 2024, 19-22 November 2024 and 25 November 2024

Site Visit made on 18 November 2024

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Costs application in relation to:

Appeal A Ref: APP/X4725/C/24/3337726

Appeal B Ref: APP/X4725/W/23/3336117

Land at Welbeck Landfill Site, Boundary Lane, Normanton WF6 2JA

- The application is made under the Town and Country Planning Act 1990, sections, 78, 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wakefield Metropolitan District Council (the LPA) for a partial award of costs against Welbeck Waste Management Ltd.
 - The Inquiry was in connection with:
 - Appeal A against an enforcement notice alleging the breach of condition 1 of planning permission Ref: 18/00754/WAS in that the importation of non-hazardous waste is continuing to be imported into the landfill containment site area after the specified time period.
 - Appeal B against the refusal of planning permission for the reclamation by landfilling with colliery spoil and controlled waste without complying with conditions attached to planning permission Ref 18/00754/WAS, dated 14 September 2018.
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Decisions

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

The submissions for Wakefield Metropolitan District Council

2. The costs application was made orally at the inquiry. The LPA contends that the appellant has behaved unreasonably as it introduced a new environmental statement (ES) at proof submission stage in May 2024 prior to the opening of the Inquiry in June 2024. The new ES was fresh and substantial evidence, and its submission was at a late stage. That unreasonable behaviour necessitated an adjournment to the Inquiry for consultation to be carried out. It also necessitated further work to be undertaken in the form of revised proofs of evidence from the LPA's ecology and planning witnesses. Accordingly, the LPA seeks a partial award of costs in respect of its attendance at the first day of the Inquiry on 4 June 2024 and the revised proofs of evidence.

The response for Welbeck Waste Management Ltd

3. The response was made orally at the Inquiry. In summary, the LPA's application for costs was made late. The Planning Practice Guidance (PPG) advises that costs applications should be as soon as possible. The LPA was aware of the adjournment in June 2024. The costs application should not be accepted because it was not made until November 2024 and there are no good reasons for it having been made late.

4. If it is to be accepted, then it should be noted that the appellant foreshadowed the production and submission of a revised ES. The appellant made attempts ahead of the Inquiry to obtain an indication from the Inspector as to whether consultation was necessary on its submission. The appellant's case was that it was not.

Reasons

5. 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.
6. The appellant foreshadowed in their appeal statement of April 2024 that an updated ES would be submitted. I subsequently concluded that the consideration of whether I was to accept the updated ES was bound up with my consideration of whether I was to accept the appellant's amendments to the proposals. I invited written responses which indicated that the parties disagreed on the acceptance of the amended scheme, the updated ES and the consultation requirements for such. To that end, I determined that the appropriate course of action was to open the Inquiry on the appointed day and to hear submissions from the parties on the matter. Having done so, I ruled that it was open to me to accept the amended scheme and the updated ES, but that consultation would need to be carried out. Thus, I adjourned the Inquiry for that to happen. To that end, it was not unreasonable behaviour on the part of the appellant that led to the Inquiry being adjourned. The appellant had sought to address the matter in writing prior to the Inquiry to avoid the need for an adjournment.
7. Ultimately, the amended scheme arose from the change in circumstances following the LPA's decision to refuse the application subject of Appeal B in respect of the reduction of waste imports. As I indicated on the opening day of the Inquiry, I am satisfied the appellant made sufficient effort to advance the amendments at the earliest possible opportunity. Moreover, regardless of whether or not the ES was updated at the earliest possible opportunity, the fact is the main parties agreed in essence that it was incumbent upon me to determine the appeal on the basis of the most up-to-date environmental information available. As a result, unreasonable behaviour has not been demonstrated.
8. I note the appellant's points regarding the timing of the submission of the costs application. However, ultimately, the application was made before the close of the Inquiry. In any event, the LPA has not demonstrated unreasonable behaviour on behalf of the appellant. Thus, regardless of the procedural point regarding the making of the costs application, the application must fail.

Conclusion

9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and a full award of costs is not warranted.

J Whitfield

INSPECTOR