



Costs Decision

Inquiry held on 20 May 2025

Site visit made on 21 May 2025

by J Woolcock BNatRes (Hons) MURP DipLaw MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

**Costs application in relation to Appeal Ref: APP/N4720/W/24/3355821
Field 4381, Warren Lane, Bramham, Wetherby LS24 9NU**

Decision

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

The submissions for Harmony BH Limited

2. The costs application by the appellant was submitted in writing and in an email dated 8 May 2025. It is for a full award of costs, and in the alternative, a partial award. No additional points were made orally at the Inquiry.

The response by Leeds City Council (LCC)

3. The response was made by LCC in writing and in an email dated 13 May 2025. No additional points were made orally at the Inquiry.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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.
5. In determining the application in June 2024 LCC undertook a Green Belt 'Very Special Circumstances' balancing exercise in accordance with the 2023 version of the National Planning Policy Framework (NPPF) for inappropriate development. Given the harm identified by LCC to the Green Belt, visual amenity and agricultural land, it was not unreasonable for LCC to come to a judgement that this harm was not clearly outweighed by other considerations. This is particularly so because there was some uncertainty about the timely deliverability of benefits from the proposed development given that the applicant had requested a 12-year commencement period.
6. Furthermore, it was not unreasonable for LCC to find that its concerns about the proposal could not be addressed by the imposition of appropriate planning conditions. LCC had before it no convincing evidence to indicate that the harm to the visual amenity of the area could be satisfactorily mitigated. In addition, West Yorkshire Fire & Rescue Services' letter dated 13 June 2024 stated that the proposal should meet the recommendations of the National Fire Chiefs Council Guidance (NFCCG) or provide justification for any deviation. In the circumstances it was not unreasonable for LCC to consider that there was insufficient evidence to demonstrate that compliance with the NFCCG could be

- achieved by the imposition of reasonable planning conditions. Based on evidence about the scheme at that time, I consider that it could not have been concluded that the imposition of suitable planning conditions would have enabled the proposed development to go ahead. LCC did not refuse permission on a planning ground that was capable of being dealt with by conditions.
7. Having regard to relevant policy considerations at that time, I find that LCC's decision to refuse planning permission did not prevent or delay development that should clearly have been permitted. There are no grounds for a full award of costs.
 8. The application for a partial award of costs concerns LCC's response to the submission of revised and further information by the appellant with the appeal documentation on 19 November 2024. LCC informed the Planning Inspectorate (PINS) on 25 November 2024 that this additional information was inadmissible and should not be taken into consideration. The appellant argues that this meant that there was no option but to incur considerable expense in an informal consultation exercise, which was conducted between 19 December 2024 and 16 January 2025.
 9. LCC subsequently advised PINS on 22 January 2025 that it no longer contested the reasons for refusal, which were to be treated as withdrawn. This was followed by LCC's Position Statement, dated 27 January, explaining that its position on the appeal had changed because of the revised and additional information submitted with the appeal by the appellant, along with the December 2024 material changes to the NPPF. The appellant argues that LCC's move from its position that the appeal documentation was inadmissible, to the withdrawal of its reasons for refusal, must have included a change of position in relation to the acceptability of the revised and further information, and that this change was without any explanation.
 10. It was appropriate for LCC to revisit its position given the changes to the NPPF. In doing so I consider that it was prudent for LCC to take into account the revised and further information submitted with the appeal, knowing that the Inspector would have discretion to deal with the appeal on this basis at the Inquiry. It was not unreasonable for LCC to find that its previous concerns could be addressed by planning conditions. Circumstances had changed. The NPPF included provisions for grey belt land and omitted reference to land used for food production in Footnote 65. The appellant submitted an Enhanced Mitigation Strategy, a soil management plan, a battery safety management plan, and a Grid Connection Technical Note. The latter provided for a 2026 connection rather than the 12-year commencement period previously requested by the appellant. LCC's overall response to the submission of revised and further information at the appeal stage was not unreasonable. Even if I am wrong about this, I do not consider that it resulted in the appellant incurring unnecessary expense for the following reasons.
 11. The appellant argues that had LCC taken its current view about the acceptability of the revised and further information back in November 2024, then the appellant would not have been put to the unnecessary expense of the consultation exercise. Irrespective of what LCC thought about the submission of revised and further information, at the appeal stage it was a matter for the Inspector to decide if the additional material would be accepted. This was made clear in paragraph 20 of the Case Management Conference Note. It appears to me that the appellant anticipated that consultation would be

required to demonstrate compliance with the principles established in the well-known *Wheatcroft* and *Holborn Court* judgments. Given the likelihood that the appellant, irrespective of LCC's views, would have consulted on the revised and further information to inform the Inspector, I consider that the consultation exercise did not result in unnecessary expense and so a partial award of costs on this basis is not warranted.

12. The appellant is critical of a delay in receiving consultation responses to LCC about battery safety and landscaping. I am not convinced that any such delay amounted to unreasonable behaviour on the part of LCC. But even if it did so, the delay did not result in unnecessary expense for the appellant. Landscape comments were provided in LCC's 27 January Position Statement, well in advance of the deadline on 22 April for submission of Proofs of Evidence. The appellant's agent was informed at a meeting on 22 January about the conclusions of BST+T's battery safety peer review commissioned by LCC. However, the full document was not given to the appellant until 19 days before the opening of the Inquiry. Nevertheless, the SoCG dated 6 February refers to LCC's independent peer review and to LCC's position that the proposal would be "acceptable subject to there being a reasonable prospect that the recommended planning condition/s can be satisfied via the LPA and WYFRS". Mr Sharpe's Proof of Evidence for the appellant just reiterates the position set out in the appellant's Statement of Case and refers to the SoCG. Any delay in sharing consultation responses did not result in the appellant incurring wasted expense in dealing with these matters in the lead up to or during the Inquiry.
13. LCC did not think it necessary to add two further appeal decisions suggested by the appellant to the Inquiry Core Documents. However, this has no implications for the costs application. The additional appeal decisions were added as Core Documents but were not relied upon during the Inquiry proceedings.
14. For the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of full or partial costs is not warranted.

J Woolcock

INSPECTOR