



Costs Decision

by Mr Anthony Thickett BA(HONS) BTP MRTPI[]

an Inspector appointed by the Welsh Ministers

Decision date: 05/08/2026

Costs application in relation to Appeal Ref: CAS-04438-N8F4W9

Site address: Land North of Bronwylfa Road, Rhostyllen, Wrexham, LL14 4BJ.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Innova Renewables Developments for a full award of costs against Wrexham County Borough Council.
 - The hearing, held on 21 July 2026, was in connection with an appeal against the failure to give notice within the prescribed period of a decision on an application for planning permission for an Energy Storage System (ESS) including energy storage units, substation, site access, cable connection, landscaping and ancillary infrastructure.
 - A site visit was made on 22 July 2026.
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Decision

1. The application for a full award of costs is refused but a partial award is made in the terms set out below.

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Procedural

3. I understand the appellant's frustration with the length of time the appeal application was with the Council and its failure to determine. However, that planning departments are under resourced in Wales is recognised in a study undertaken by the Royal Town Planning Institute and is being addressed by Welsh Government. The holding direction from Welsh Government (Trunk Roads) issued in June 2024 was not withdrawn until February 2025. Part of the reason for the delay in determining the appeal application was, therefore, out of the Council's control.
4. The Council's long delay in adopting its Local Development Plan (LDP), submitted for examination on the basis it was sound and was found to be sound, the subsequent challenge to adoption, thereby returning the LDP to non adopted status, the request to Welsh Government to withdraw the LDP and its subsequent withdrawal, all took time during which development plan policy in Wrexham was in a state of turmoil.

5. I have sympathy with the Council's officers having to deal with in an uncertain policy environment whilst being short staffed. I consider the Council had reasonable grounds for not determining the appeal in the prescribed timescales.

Substantive

6. The Council acknowledged at the Hearing it produced no evidence to counter the expert evidence and opinion provided by the appellant on safety matters. The academic paper appended to its statement was 5 years old and partly based on a different type of battery. Neither the Health and Safety Executive, the North Wales Fire & Rescue Service, Welsh Government (Trunk Roads) or its own Public Protection Officer objected to the proposed development. The Council's position on safety is unsubstantiated by up to date, credible evidence relating to the technology proposed here, this constitutes unreasonable behaviour.
7. Whilst it was for the applicant to demonstrate there was no previously developed land or land of a lower agricultural grade available, the Council produced nothing, by way of examples of potentially suitable sites to support its position the site selection process was not robust. Bersham Colliery Tip was mentioned at the Hearing but I say in the appeal decision why this is not a reasonable alternative. Regarding criticism over the lack of weighting to the selection criteria, this was addressed in an addendum report and the explanation not meaningfully challenged. The Council's failure to submit evidence to substantiate its position on the site selection report constitutes unreasonable behaviour.
8. The Council produced evidence to support its case on the impact of the proposed development on the character and appearance of the area and the loss of 54m of ancient hedgerow is supported by national policy.

Conclusion

9. Nonetheless, the Council's objections regarding safety and loss of best and most versatile agricultural land are unsubstantiated. This led to the appellant incurring unnecessary expense defending these matters. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Annex, has been demonstrated and that a partial award of costs is justified. The application for an award of costs is allowed in the terms set out below.

Costs Order

1. In exercise of the powers under section 322C 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 Wrexham County Borough Council shall pay to Innova Renewables Developments, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in rebutting the Council's case in relation to safety and the loss of best and most versatile agricultural land; such costs to be assessed in the Senior Courts Costs Office if not agreed.
2. The applicant is now invited to submit to Wrexham County 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.

A Thickett

Inspector