

## APPENDIX 1

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Ormskirk  
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Cllr Ian Moran  
Leader of the Council  
West Lancashire Borough Council  
52 Derby Street  
Ormskirk  
L39 2DF

01 February 2016

Dear Ian

### **Whitemoss Landfill judicial review: request for contribution**

I understand you need from me a written confirmation of and rationale for the request for a £4,000 contribution to continue with the judicial review case, which challenges the May 2015 decision to grant development permission to Whitemoss Landfill Ltd, and that this case may be presented as a leader's action to cabinet, given the urgency of the case. This is further to our conversation last week.

As you know, I am the 'client contact' for the judicial review, in liaison with environmental specialist law firm Richard Buxton & Partners. My role is simply to liaise with the wider community on this matter, as the legal aid applicant does not wish to draw public attention to himself as applicant, any more than is necessary in respect of court papers. I understand this is relatively common practice.

The Secretary of State decision was made in May 2015 and the judicial review case lodged with the High Court within the six week period permissible. A written permission to proceed to full hearing was refused in October 2015, but this is relatively common, and an oral hearing to the same effect is slated for February 16th (a change from February 12th, of which I advised you earlier, because the Whitemoss Ltd legal team is unavailable on that date).

Costs and protection have been covered by legal aid, up to £20,000 in total. Disappointingly, and with no obvious rationale, the Legal Aid Authority agreed in September 2015 to pay just 35% of these costs (50% has tended to be the usual percentage) meaning that as a "community contribution" we need to find £13,000. Around £7,800 has been paid into the relevant client account at Richard Buxton & Partners, leaving a shortfall of £5,200 to meet the legal team's costs, and to ensure progress towards the oral

hearing. The leader and cabinet will, I am sure, understand how challenging it is to raise such a legal 'fighting fund' in a relatively deprived area, and for this reason assistance is sought in meeting the funding gap, through a £4,000 contribution.

Such a contribution would, I suggest, be fully in line with the stated position of the council, which is in opposition to the proposed development for environmental and economic reasons, as expressed at both written and oral stages of the original case. This judicial review, while obviously in legal focused on the process adopted by the NSIP panel in reaching its decision, as opposed to the decision itself, is largely focused on the argument that the NSIP panel did not act reasonably in respect of its judgment on substantive environmental matters. It is therefore, I suggest, quite reasonable for the council to allocate funds to support the continuation of this case.

Yours sincerely

Paul Cotterill