



Costs Decision

Inquiry commenced on 1 October 2019

Site visit made on 11 October 2019

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA

an Inspector appointed by the Secretary of State

Decision date: 25th November 2019

Costs application in relation to Appeal Ref: APP/D1265/W/19/3232596 Woodsford Quarry, Woodsford, Dorchester, Dorset DT2 8RF

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Hills Quarry Products Ltd for a partial award of costs against Knightsford Parish Council.
 - The inquiry was in connection with an appeal 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 formation of silt lagoons to serve the existing processing plant at Woodsford Quarry with site restoration to agricultural use.
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Decision

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

The submissions for Hills Quarry Products Ltd

2. The application for costs was made in writing and set out at inquiry document 35.
3. In reply to the Parish Council's response, the appellant indicated that the beginning of paragraph 56 notes that interested parties that choose to be Rule 6 parties under the inquiry procedure rules may be liable to an award of costs if they behave unreasonably. The following paragraphs refer to 'other' interested parties, i.e. those other than Rule 6 parties.
4. The concern is that time was spent at the inquiry examining the issues of Palaeolithic archaeology and the hollow way, which was being pressed by the Rule 6 party, when the condition was accepted as being adequate at the end of the session, which was a waste of inquiry time.
5. References to hollow ways by others does not help the Rule 6 party as none indicates that there is a hollow way crossing the appeal site and nor does the evidence show that; it is an assumption by the Rule 6 party that it does, and this was not identified in the statement of case.

The response by Knightsford Parish Council

6. The appellant referred to the planning practice guidance related to Appeals that covers costs. Paragraphs 27 to 33 were referred to. Reference was made to paragraphs related to what behaviour may lead to an award of costs with particular reference to paragraph 56. This notes that awards of costs against other interested parties will not be made, other than in exceptional

- circumstances. It also notes that an award will not be made in favour of, or against interested parties where a finding of unreasonable behaviour by one of the principal parties relates to the merits of the appeal.
7. The Parish Council considers that there was nothing exceptional about what occurred during the inquiry process. The pre-inquiry meeting did set out draft main issues, but these were draft and did change between it and the inquiry.
 8. The proofs were submitted later than expected because of the extension of time granted for proof submission. At that stage it was noted that there was a 'proof of evidence' from Dr Ford attached to the proof of Mr Burley. This clearly was prepared before seeing Dr Collcutt's evidence and addressed the issues raised by Dr Collcutt at the inquiry. The appellant was clearly aware of the issues raised by the Parish. This covered the matter of Palaeolithic remains and the hollow way. The hollow way has also been referred to by other parties including Ms Bryant and in the baseline heritage report. Historic England also referred to a hollow way in its evidence. It was an expressed concern prior to the parish raising it at the inquiry. Time was spent on it, but the evidence was not as clear as it might have been and some explanation discussion was warranted and there was no consensus, but that does not make it unreasonable.
 9. It was reasonable to test the evidence of Dr Ford at the inquiry, it having been submitted with Mr Burley's proof, and to be expected. There is no basis to indicate that these matters took 2 days, they were part of the evidence submitted and tested. These were reasonable concerns and the matter of Palaeolithic archaeology was before the inquiry and Dr Ford acknowledged in examination that the concerns were reasonable. Dr Collcutt had not been able to prepare a rebuttal to Dr Ford's proof so it was necessary to comment on it and clearly reasonable for him to be able to respond.
 10. It is acknowledged that the condition was agreed at the end of the session, but that does not make it unreasonable.
 11. There are no exceptional circumstances and no basis for a costs award.

Reasons

12. For a matter to be raised at an inquiry it does not have to have been identified as a main issue and raising another issue is not unreasonable in itself. There is some frustration that the matter of the Palaeolithic archaeology was not emphasised as being an important issue for the Rule 6 party at the pre-inquiry meeting, given the emphasis that seemed to be put on this at the inquiry. Similarly, the emphasis that was being placed on the hollow way had not come through in the pre-inquiry meeting.
13. However, the appellant had noted, prior to the inquiry, that Palaeolithic archaeology was an issue and provided, as an appendix to another proof, a response from Dr Ford to the matter that seemed to cover the issue without his attendance. Clearly when the appellant felt that evidence was being attacked by the Parish it was reasonable to allow Dr Ford to have time at the inquiry to defend his position. It seems to me that while this was not expected to be a main matter for discussion at the inquiry, it was reasonable for the Parish to want to look at Dr Ford's proof in greater detail. While it would have enabled better planning if it had been identified at the pre-inquiry meeting, it did not

result in any additional time over and above what would have been required had the matter been correctly identified as an issue in dispute.

14. The matter of the hollow way again is an issue that the Parish Council can bring to the attention of the inquiry and its view of the possibility of it once extending across the appeal site. It did take some time to explain the issue and for the appellant to respond, referring to geophysical survey work and excavations. Again it would have been better if this matter had been raised earlier to enable Dr Ford to plan to be at the inquiry. While this was clearly a significant inconvenience to Dr Ford, he did put himself out and made himself available at very short notice. However, I do not consider that is extra expense, as if it had been raised earlier Dr Ford would have needed to attend.
15. While I acknowledge that the evidence from Dr Collcutt and Dr Ford took a little over a day, the time taken was not just related to these particular issues, but Dr Collcutt's evidence related to other matters as well, so I do not accept the 2 day assessment of the time involved. In addition, I consider that to not bring the matter to attention at the pre-inquiry meeting may well relate to some extent to inexperience of the procedures. I conclude overall that there has not been unreasonable behaviour that has led to wasted expense and the application for an award of costs is not justified either on grounds of reasonableness or wasted costs.

Graham Dudley

Planning Inspector