



Costs Decision

Hearing Held on 10 September 2019

Site visit made on 10 September 2019

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Costs application in relation to Appeal Ref: APP/T1600/W/18/3207814 Cotswold Hill Quarry, B4077 Ford Manor to Charnel Plantation, Ford, Temple Guiting GL54 5RU

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Alan Smith of Smiths (Quarry Products) Limited for a full award of costs against Gloucestershire County Council.
 - The Hearing was in connection with an appeal against the refusal of planning permission for revised restoration proposals without complying with Conditions 3 & 4 attached to planning permission Ref 14/0104/CWMAJW, dated 13 August 2015.
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Decision

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

The Case for the applicant

2. Condition 3 is unreasonable by enshrining the average figure provided in the application, and so making it impossible for the applicant to comply with its terms. Furthermore, the Council has not qualified the average figure or provided clarification or objective analysis to explain why it considers it offers an acceptable limit, and in this regard it has not worked proactively with the applicant. There are also inconsistencies between the reason for refusal of this current application and the reasons for the imposition of the conditions. No alternative conditions have been forthcoming. Whilst reference was made to complaints, the applicant has been unable to assess them objectively as there has been no meaningful context to the complaint history.
3. Condition 4 is unnecessary given the requirements of Condition 2 and so fails the tests in the *National Planning Policy Framework*. Moreover, the *Planning Practice Guidance* makes clear that a condition should not be imposed merely because it is suggested by the applicant.
4. The Council has been unable to produce substantive evidence that supports its reasons for refusal and tallies with its decision-making at quarries in the locality, and at Stanley's Quarry in particular.
5. These unreasonable actions have resulted in unnecessary expense and so a full award of costs is justified.

The Case for the Council

6. The applicant has not shown why it is impossible to comply with the conditions (which accorded with evidence that had been submitted), why their presence unreasonably affects the deliverability of the development, or what

methodology underlies its suggestion of a limit of 150 movements a week. The conditions on the decision notice are complementary rather than contradictory, and repeated requests for information were made. Stanley's Quarry is a materially different site, and the responses to requests concerning complaints have been affected by requirements and responsibilities established by the General Data Protection Regulation.

7. Accordingly, an award of cost is not justified.

Inspector's Reasons

8. 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.
9. If the applicant considers the Council has deliberately withheld information in a request under the Freedom of Information legislation, then that is a matter to be taken up separately. However, I see no reason why a lack of information about the history of complaints has had an unreasonable impact on the applicant's approach to this appeal. Indeed, I am mindful that there were a number of representations to the appeal itself and its associated application that have given a clear indication of the nature of local objection. Furthermore, while the Council's concerns about development in non-compliance with Condition 4 appear to lie outside of the stated reason, as they nonetheless concur with the reason for Condition 3 again I consider the applicant has not been put to unnecessary expense. I have also found that the specification of a maximum amount of fill is not duplicating Condition 2.
10. I appreciate that the Council has offered little to justify the specific figures in the conditions, or indeed how the conditions would work with those figures in place. In this regard the applicant has expressed a concern about a lack of proactive working by the Council. However, the Council has nonetheless adequately articulated its concerns about intensification. Moreover, I am not satisfied that a common position between the applicant and the Council would have occurred, as any figure accepted by the Council would have been well below that sought by the applicant and would not have provided the flexibility he wants. As such, even if the Council had been more proactive and elaborated upon how it had arrived at its average figures, I have no basis to consider the appeal and its associated expense would have been avoided.
11. Finally, turning to the matter of inconsistency, I appreciate that each case is different and quarry sites tend to have complex planning histories. I am not satisfied that any discrepancy between the handling of this appeal and the site at Stanley's Quarry constitutes unreasonable behaviour.

Conclusions

12. Accordingly, I conclude that unreasonable actions leading to unnecessary expense has not been demonstrated, and so the costs application is refused.

J P Sargent

INSPECTOR