

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 Gloucestershire County Council for a full award of costs against Mr Alan Smith of Smiths (Quarry Products) Limited (the defendant).
 - 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 Council

2. The defendant acted unreasonably by not appealing the disputed conditions when the original permission was granted and the conditions imposed. Moreover, had he provided information before or during the appeal concerning vehicle limits this could well have negated the need for the appeal to proceed.
3. These unreasonable actions resulted in unnecessary expense and so a full award of costs is justified.

The Case for the defendant

4. The defendant was within his rights to make this appeal, and so that course of action was not unreasonable. Indeed, the circumstances of the case meant an appeal immediately following the grant of permission would not have been appropriate.
5. With regard to the engagement, the agent was not asked specifically for information, and received no requests for noise or transport assessments. Moreover, she responded promptly to any emails received from the Council. The defendant offered no revised figures for the conditions as no quantification of the background to the Council's position was available.
6. Accordingly, an award of cost is not justified.

Inspector's Reasons

7. 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.
8. In this instance I see no reason why the defendant acted unreasonably in not appealing the condition earlier. The course of action he has followed is entirely lawful, and understandable reasons have been given as to why an appeal immediately after the permission was issued would have been inappropriate. Moreover, if he had challenged the conditions at that point this would not have prevented an appeal but just meant it would have occurred earlier.
9. With regard to the engagement, I have no evidence to show the defendant was particularly obstructive or declined to be involved. I also have little to show what alternative figures the Council would have accepted or that a position of common ground could have been reached.

Conclusions

10. 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