



Costs Decision

Site visit made on 24 April 2023

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th June 2023

Costs application in relation to Appeal Ref: APP/Y0435/X/21/3285698 Long Stocking Farm, North End Lane, Ravenstone, MK46 5AN

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr S Armstrong for a full award of costs against Milton Keynes Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the extraction of stone.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.
3. Awards against a Local Planning Authority (LPA) may be either procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. In this case, the applicant is seeking a full award of costs on substantive grounds.
4. There are two strands to the applicant's application for costs. The first is that the LPA incorrectly concluded that there was insufficient information to confirm that the development would be in accordance with the condition set out at Schedule 2, Part 6, Class C, paragraph C.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO). This is because, in their view, no such information is required to demonstrate the lawfulness of the appeal proposal.
5. The second strand is that the LPA misguided itself by relying on the provisions set out in Schedule 2, Part 6, Class A of the GPDO to support its second reason for refusal. As a result, the applicant asserts that the LPA has acted unreasonably in relation to these substantive matters and that this has resulted in the applicant incurring unnecessary and wasted expense in mounting the appeal.
6. With regard to the first point, and without repeating my reasoning here, it can be seen from my appeal decision that I do not share the applicant's view. It was for the applicant to provide sufficient information to make its case for a LDC. Therefore, on this point, I cannot agree that the LPA acted unreasonably.

7. Turning to the applicant's second point, the LPA consider that the proposed quantity of stone extraction would necessitate the formation of a private way to facilitate the passage of machinery and vehicles to transport the quarried stone. Nevertheless, while this might be the case, this is beyond the scope of what the applicant was seeking to demonstrate as a proposed lawful development. Quite simply, no such private way was proposed as part of the application, and so it should not have formed part of the LPA's assessment. If further development would be required to facilitate the applicant's proposal, it would be a matter for them to seek the appropriate consent.
8. Accordingly, the application of the criteria set out in Class A of Part 6 was irrelevant to an assessment of lawfulness in this case. Therefore, I find the LPA to have behaved unreasonably in relation to its second reason for refusal.
9. I turn now to the matter of unnecessary or wasted expense. The applicant provided a short rebuttal to the LPA's second reason for refusal as part of their overall appeal statement. This involved a straightforward rebuttal that did not involve any detailed analysis or further in-depth technical assessment.
10. Therefore, it appears there was little, if any, additional effort as a result of addressing the LPA's second reason for refusal, particularly given that the application would still have necessitated an appeal on the basis of the LPA's first reason for refusal. Consequently, unnecessary or wasted expense, as a result of the LPA's unreasonable behaviour, has not been demonstrated.

Conclusion

11. Although I find that the LPA acted unreasonably in applying its second reason for refusal, it has not caused unnecessary or wasted expense. Therefore, an award of costs is not justified.

J M Tweddle

INSPECTOR