



Costs Decision

Site visit made on 24 June 2023

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Costs application in relation to Appeal Ref: APP/N4205/W/22/3313236 Montcliffe Quarry, Georges Lane, Horwich, Bolton BL6 6RS

- 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 David Armstrong (Armstrongs Aggregates Limited) for a full award of costs against Bolton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a lateral northern extension of Montcliffe Quarry.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. Last year, a similar development on the same site was dismissed at appeal (the previous appeal). That was refused for 3 reasons, namely that it would harm the character and appearance of the area, that it would harm ecology, and that it was inappropriate development in the Green Belt. In the associated costs decision, it was found that the Council acted unreasonably in relation to its case concerning it being inappropriate development and harming ecology. However, through its submissions in the appeal process, it had identified reasonable grounds to substantiate its position concerning the effect on the character and appearance of the area. As a result, a partial award of costs was allowed.
4. The scheme subject of this current application is very similar indeed to what was considered under that previous appeal, differing principally with regard to the drainage situation and the length of time over which extraction is intended to occur. It was refused for the exact same reasons as the previous appeal but, as that decision was issued before the previous appeal was determined, that of itself was not unreasonable. However, in connection with this current appeal the Council has presented no submissions to justify its case on any of the 3 reasons for refusal in the decision notice, and no support for these concerns is found in the officer report as the development was refused contrary to recommendation. Consequently, the planning authority has failed to substantiate any of its stated reasons for refusing planning permission, and so has not shown that it had a reasonable basis for its stance in relation to any of the 3 reasons offered.

5. I accept that the Council told the applicant at a very early stage that it would not be defending the appeal and I recognise too that the applicant's submissions in this case will be very similar to those made previously. However, despite these facts I consider unnecessary expense was nonetheless incurred by the applicant as he still had to proceed with the appeal due to it being the only remaining avenue open to him in his pursuance of planning permission.

Conclusion

6. Accordingly, I conclude it has been shown that the Council has behaved unreasonably as it failed to substantiate any of its stated reasons for refusing planning permission, and so has not shown that it had a reasonable basis for its stance in relation to any of the 3 reasons offered. A full award of costs is therefore justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bolton Metropolitan Borough Council shall pay to Mr David Armstrong (Armstrongs Aggregates Limited), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Bolton Metropolitan Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

JP Sargent

INSPECTOR