



Costs Decision

Hearing Held on 25 October 2023

Site visit made on 24/25 October 2023

by J Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 15 November 2023

Costs application in relation to Appeal Ref: APP/F1610/W/23/3323604 Boldridge Brake, Crudwell Lane, Long Newnton, Tetbury, Gloucestershire GL8 8RT

- 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 Long Newnton Parish Council for a full award of costs against Melcourt Industries limited.
 - The hearing was in connection with an appeal against the refusal of planning permission for the extension to yard used for storage of horticultural products.
-

Decision

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

The submissions for Long Newnton Parish Council

2. The appellant should have sought expert legal advice, in the same way that the Parish Council did, prior to making the appeal. Appeals are a last resort and in this case receipt of expert legal advice would have made the appellant realise that the validity of the grounds of appeal were questionable.

The response by Melcourt Industries limited

3. The whole basis of an appeal is for the planning merits of an application to be considered in the round by an Inspector.

Reasons

4. The Planning Practice Guidance (PPG) informs that interested parties who have taken part in an appeal may apply for costs. Costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
5. In respect of an appellant, the PPG makes clear that the right of appeal should be exercised in a reasonable manner. An appellant is at risk of an award of costs being made against them if the appeal or ground(s) of appeal had no reasonable prospect of succeeding.
6. The Council had refused the application on the grounds of highway safety, predominantly on the basis that the proposed Use Class would be B2, thereby producing a larger number of trips than Use Class B8.

7. However, whilst the Council had had sight of an Opinion of Counsel, they had also previously permitted a B8 development adjacent to the business in question. There was therefore an ambiguity in the position taken by the Council. It seems to me therefore, in light of this, to be not an unreasonable stance by the appellant to appeal the decision.
8. Furthermore, it is not incumbent on an appellant to always seek legal advice before embarking on the appeal process. The whole raison d'être of a planning appeal is that the conflicting views (and these can be conflicting legal views) of the parties are tested either in writing or orally.

Conclusion

9. In light of the above I consider that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, and an award of costs is not therefore justified.

John Wilde

Inspector