The Planning Inspectorate

Costs Decision

Site visit made on 11 May 2011

by Peter Willows BA DipUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 June 2011

Costs application in relation to Appeal Ref: APP/H1033/A/11/2146395 The Coach House, Millbrook House Estate, Manchester Road, Tintwistle, Derbyshire SK14 8LA

- 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 James Wardle for a full award of costs against High Peak Borough Council.
- The appeal was against the refusal of planning permission for the change of use of The Coach House to a residential care home for young adults with learning difficulties (Use Class C3 to C2).

Decision

1. I allow the application for an award of costs in the terms set out below.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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. In this case, it is understandable that the Council sought to protect the living conditions of the occupants of The Old Bakery, given its proximity to the appeal property and, in particular, its access.

4. Nevertheless, it was incumbent upon the Council to show that it had some reasonable basis for its concern that the proposal would lead to a harmful increase in traffic movements and activity. Circular 03/09 advises at paragraph B16 that Authorities will be expected to produce evidence to show clearly why the development cannot be permitted. Yet I can find no reasoning or evidence within the case officer's report to show how such a conclusion was reached.

5. Moreover, evidence provided by the appellant contradicted the Council's stance. While the Council was entitled to take a contrary view, there is no critique of the appellant's figures. Consequently, the Council's view that the number of vehicle movements associated with the scheme would be likely to be far in excess of the normal traffic movements created by a single dwellinghouse was not justified. To refuse planning permission on that basis was unreasonable.

6. Some additional explanation is provided in the Council's appeal statement, which suggests that increased movements are likely to arise from staff, visitors, support services and the use of commercial and community transport. However, there is no adequate attempt to quantify this. Nor is there any explanation of why the figures provided by the appellant cannot be relied upon. The Circular makes clear at paragraph B18 that vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, are more likely to result in a costs award.

7. Furthermore, the Council refers to an increase in pedestrian movement, without any adequate explanation of why this would arise. Indeed, that conclusion appears in conflict with the Council's suggestion in its appeal statement that the occupants of the care home would be unlikely to access local services by walking and that the predominant mode of transport for the occupiers of the premises would be the private car.

8. I have noted the Council's submission that the property would operate as a commercial use. However, in the absence of any clear indication of harm that would arise from that, it is not an adequate basis on which to oppose the scheme. Although the Council referred to relevant development plan policies, its reasoning did not adequately support its contention that policy GD5 would be breached.

9. I have no evidence that the Council relied unreasonably on the views of the neighbouring occupier, and that strand of the applicant's case has no bearing on my decision. Nor do I see that the Council was obliged to make any special case for taking a contrary stance to the Highway Authority, given the very brief nature of its consultation response. Nevertheless, I conclude that the Council's decision to refuse the application and subsequent failure to adequately support its decision was unreasonable, for the reasons I have given.

10. The refusal of planning permission for the single reason given resulted in an appeal that would otherwise have been unnecessary. The appellant advises that this has resulted directly in his incurring expense in preparing and pursuing the appeal, utilising the services of professional consultants. I have no reason to doubt that that is so. Accordingly, the Council's unreasonable decision to refuse planning permission has resulted in unnecessary expense for the appellant.

11. For the reasons I have outlined I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has been demonstrated and that a full award of costs is justified.

Costs Order

12. In exercise of my 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 powers enabling me in that behalf, I HEREBY ORDER that High Peak Borough Council shall pay to Mr James Wardle the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.

13. The applicant is now invited to submit to High Peak 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. In the event that the parties cannot

agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Peter Willows

INSPECTOR