The Planning Inspectorate

EST 1909

Costs Decision

Site visit made on 6th August 2012

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 11 September 2012

Costs application in relation to Appeal Ref: APP/H1033/A/12/2172921
Land adjoining 87 Chapel Road, Whaley Bridge, High Peak SK23 7EP

- 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 High Peak Borough Council for an award of costs against Mr M & Mrs T Bromley.
- The appeal was against the refusal of the Council to grant planning permission for residential development of 2 semi-detached houses and 1 detached house.

Decision

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

Reasons

2. This application for costs is considered in accordance with the policy guidance of DoE Circular 03/2009 (the Circular) and all the relevant circumstances. Irrespective of the appeal outcome, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expenditure unnecessarily.

3. The submission by the appellants at the appeal stage of additional evidence – an ecological report - is acknowledged by the Council as having been intended to address one of the reasons for refusal. Notwithstanding that the appellants were already aware that the Council concurred with advice received from the Derbyshire Wildlife Trust that this information was insufficient, I find nothing unreasonable in its submission. It is open to an appellant to submit such evidence as is considered appropriate in support of his case, irrespective of the weight placed upon it by the local planning authority or its consultees.

4. Moreover, it seems entirely reasonable for the appellants to seek to address this reason for refusal by submitting information relating to the subject at issue, even though the assessment had been prepared in connection with a different form of development and, in the event, does not assist their case. It was prepared by consultants who are acknowledged to be suitably experienced and qualified. It cannot be concluded that simply because there was a difference of opinion between the 2 parties on the subject, that the appeal had no reasonable chance of succeeding.

5. I am therefore satisfied that there has been no breach of the policy in paragraph B4 of the Circular relating to the introduction of new evidence or in paragraph B13 concerning an unnecessary pursuit of an appeal.

6. In the absence of unreasonable behaviour, the question of unnecessarily wasted expenditure does not arise.

7. I conclude that there is no basis on which to make an award of costs to High Peak Borough Council.

Jonathan G King

Inspector