The Planning Inspectorate

Costs Decision

Site visit made on 24 September 2012

by Geoffrey Hill BSc DipTP MRTPI

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

Decision date: 17 October 2012

Costs application in relation to
Appeal Ref: APP/H1033/A/12/2177406
The Old Quarry, Thorpe Street, Old Glossop, Derbyshire Sk13 7RW

- 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 M Wood of Taylor & Wood for a partial award of costs against High Peak Borough Council.
- The appeal was against the refusal of the Council to grant planning permission for development described as "proposed off street parking for 12 No. single garage units – at the Old Quarry, Thorpe Street, Old Glossop".

Decision

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

Introductory matters

2. The arguments for, and in defence of, the costs applications are set out in the written submissions for both parties, which are on the appeal file. In which case it is not necessary for me to summarise or rehearse the arguments before setting out my conclusions.

3. 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.

Reasons

4. Whilst a Council is not required to follow the advice of its own officers and agencies which are consulted at application stage, this should be only where there are good planning grounds. From the papers on the appeal file I deduce that the situation in this case is the decision was delegated by Members to an officer; that is, there was no direct Member involvement and the role of balancing technical facts, professional opinions, views of local residents and responses from lay with the planning officer officer.

5. Here there was a difference of view over the acceptability of the proposed garage buildings and their impact on the Conservation Area. These are matters of opinion rather than hard fact and I consider it was not unreasonable for the planning officer – as decision maker - to come to a different opinion to the Council's Design and Conservation Officer (which, itself, was not a wholly supportive endorsement of the scheme). An explanation of those views was set

out in the Council's appeal submissions and these had to be addressed by the appellant. Although I have not agreed with that opinion, I do not consider that it was so perverse or unjustifiable that it represents unreasonable behaviour.

6. The planning officer did, on the face of it, put forward a misrepresentation of the urban form in Old Glossop by basing part of their argument on a claimed liner pattern of development. Whilst this claim, as portrayed in the appeal submissions, is not substantiated by the Conservation Area Character Appraisal - in that the word "linear" is not used in the Appraisal - this was a minor aspect of the Council's objections and I do not accept that it led to an appreciable amount of additional time in composing the appellant's response to this element of the appeal as a specific paragraph reference for this had been given in the Council's appeal submissions.

7. On the matter of highway safety, I have found that the local highway authority's views were not in accordance with the adopted development plan policy in that they had not had due regard to government guidance on visibility at the point of access. In these circumstances it was entirely reasonable for the planning officer not to accept the views of the highway authority: it was the responsibility of the local planning authority, not the local highway authority, to make a decision on the application in accordance with the development plan unless material considerations indicated otherwise. In rejecting the consultation response of the local highway authority the planning officer was acting responsibly in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

8. I acknowledge that this aspect of the Council's decision was a disappointment for the appellant, having seemingly previously secured the support of the highway authority. However, I consider that in coming to the decision to reject the proposed scheme on highway grounds the planning officer, exercising the delegated authority on behalf of the Council, did not behave unreasonably.

9. The Council does include a comment about the on-site vegetation in its appeal submissions - which I take to be the reference to biodiversity – but this is not a main or substantial plank of their arguments raised in opposition to the initial application. It is a comment raised more in support of the concerns over the loss of existing trees and the effect on the Conservation Area. I do not consider that addressing this incurred an appreciable amount of time. Seemingly, no additional professional or expert advice was commissioned (ie no additional expense incurred) to refute this part of the Council's case.

Conclusions

10. The Council has put forward cogent arguments in support of its objections in the appeal submissions and it has been necessary for these to be addressed in the appellant's representations. Whilst some aspects of the Council's behaviour in this appeal can be regarded as unreasonable, these are relatively minor and are unlikely to have resulted in the appellant incurring additional costs in refuting the Council's arguments at the appeal. That is, although there has been some unreasonable behaviour, this had not led to unnecessary or wasted expense. Accordingly, the application for a partial award of costs fails.

Geoffrey Hill

INSPECTOR