The Planning Inspectorate

Costs Decision

Site visit made on 15 April 2013

by P Willows BA DipUED MRTPI

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

Decision date: 25 April 2013

Costs application in relation to Appeal Ref: APP/H1033/A/13/2191210 Kingsmoor School, Railway Street, Hadfield, Glossop SK13 2AA

- 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 Steven Walsh for a full award of costs against High Peak Borough Council.
- The appeal was against the refusal of planning permission for the redevelopment of existing buildings and curtilage to create 14 No residential units and associated parking and amenity areas.

Decision

1. The application for an award of costs is allowed 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 the Council's decision was made against the advice of the planning officer, who made a recommendation to grant planning permission. The Circular makes clear at Paragraph B20 that planning authorities are not bound to accept the recommendation of their officers. However, it also advises that, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the authority.

4. The essence of the Council's case is that a lack of parking within the appeal development would lead to increased competition for on-street parking spaces and that this would cause a loss of amenity to those living nearby. However, it is not clear why the Council has arrived at this view. Although the Council refers to car parking standards contained within its local plan, a lack of parking spaces could not lead to any breach of those requirements since they impose maximum rather than minimum standards. As I have explained in the Appeal Decision, the 18 spaces proposed are only 3 short of the maximum indicated by the local plan.

5. The Council refers to the terraced housing nearby and the evident demand for parking space on surrounding streets, and I can see that this would be an important consideration in circumstances where it is clear that a proposal

would lead to further parking on those streets. Yet the Council has not satisfactorily explained why this proposal would be likely to lead to any such increase. Although it is argued that there is insufficient space for visitors to park within the development, there is no adequate analysis to show how this view has been arrived at. Nor has the Council stated what level of car parking it considers appropriate. However, compliance with its own standards suggests only 3 additional spaces at most.

6. Even if some cars were to park on the street from time to time as a result of the development, I have no clear indication that this would have any material effect on local living conditions. Indeed, given the scale of the development and the level of on-site parking proposed, close to the maximum that would normally be permitted, it appears improbable to me that there would be any such effect. In the light of the advice within Paragraph B20 of the Circular it was necessary for the Council to explain its stance on this matter with greater clarity than it has managed.

7. The Circular indicates at Paragraph B18 that, where the outcome of an appeal involves matters of judgement concerning matters such as the living conditions of adjoining occupiers of property, it is unlikely that costs will be awarded if realistic and specific evidence is provided about the consequences of the proposed development. However, it goes on to advise 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. In this instance the Council's claims regarding the impact of the proposal are not supported by any adequate objective analysis.

8. I appreciate the importance of protecting local amenity, in accordance with development plan policies and the National Planning Policy Framework (the Framework). However, in order to show conflict with those policies, it was necessary for the Council to demonstrate that it had reasonable grounds for taking the view that local amenity would be harmed by the development, something it has failed to do.

9. The evidence before me does not show that the Council relied excessively on local opposition to make its case, as the applicant suggests. I also understand that the Planning Committee visited the site and do not doubt their understanding of the area. Nevertheless, for the reasons set out above I conclude that the Council has failed to adequately support its decision. This amounts to unreasonable behaviour, having regard to Paragraphs B18 and B20 of the Circular. It is clear that this will have caused the applicant to incur unnecessary expense in making the appeal and setting out his case, using the services of a professional agent.

10. I therefore 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

11. 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 High Peak Borough Council shall pay to Mr Steven Walsh the costs of the appeal proceedings described in the heading of this decision.

12. 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