The Planning Inspectorate

Costs Decision

Hearing held on 27 February 2013
Site visit made on 27 February 2013

by I Radcliffe MCIEH DMS

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

Decision date: 10 May 2013

Costs application in relation to Appeal Ref: APP/H1033/A/12/2188226 Land south of 37 Beresford Road, Chapel-en-le-Frith (Grid Reference: Easting 4064230 Northing 3805680)

- 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 Jennings Design Associates Limited for a [partial] [full] award of costs against High Peak Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for the erection of 3 two storey houses (3 bedroom 5 person units) on a vacant plot of land in a residential area.

Decision

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

The submissions for Jennings Design Associates Limited

2. The costs application was submitted in writing. No response was made to the Council.

The response by the Council

3. The planning committee has the right to disagree with an officer's recommendation for approval and refuse planning permission. The reason for refusal, together with the Council's appeal statement, describes the concerns of the authority regarding the development. Taken in conjunction with the discussion at the hearing the Council has justified its decision to refuse planning permission. As a result, the Council has not acted unreasonably.

Reasons

4. 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.

5. There is 1 claim which need to be assessed, namely whether the authority showed reasonable planning grounds for taking a decision contrary to the recommendation of its officers and produced relevant evidence on appeal (paragraph B20). The Council's reasons for refusal in accordance with paragraph B16 were complete, precise, specific and relevant to the application. In its appeal statement the Council expanded upon its concerns regarding the constrained nature of the site and its view that the resulting amount of private garden space provided to the dwellings would be inadequate. Whilst there are

a number of rear gardens in the area of a similar size to those proposed it pointed out that there are a number that are also larger. At the hearing in the discussion regarding the effect of the proposal on the character and appearance of the area the Council elaborated on its concerns contained in the reason for refusal. It did so by reference to the extant and lapsed permissions for the site and by comparing the proposed development to the surrounding area.

6. Taken together the reason for refusal, the Council's appeal statement and the submissions made at the hearing represented realistic and specific evidence about the consequences of the development. Whilst I disagree with the Council in relation to amenity space provision, I am satisfied that it demonstrated reasonable planning grounds for taking a contrary decision to the recommendation of its officers. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated. An award of costs is therefore not justified.

Ian Radcliffe

Inspector