

## Costs Decision

Site visit made on 8 March 2017

**by K E Down MA (Oxon) MSc MRTPI MRSB**

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

**Decision date: 28<sup>th</sup> March 2017**

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### **Costs application in relation to Appeal Ref: APP/C3105/D/17/3166431 Land at March House, Main Street, Mollington, OX17 1BP**

- 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 & Mrs G Finlay for a full award of costs against Cherwell District Council.
  - The appeal was against the refusal of planning permission for the erection of a replacement garage and garden store with home office over.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance advises that costs may 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. The appellants allege that the appeal was only necessary because the Council behaved unreasonably in a number of ways when determining the original application.
4. Firstly, the case officer report contains a number of inaccuracies relating to the relative scale of the proposed outbuilding compared with March House. However, the absolute dimensions, where specified, are accurate and, having read the full report, I am satisfied that the officer understood the scale of the building being proposed. Therefore, whilst mistakes were made these did not affect the outcome of the application process.
5. Secondly, the appellants complain that the Council, having indicated in an e-mail that a single storey development on a similar footprint might be acceptable, refused the proposed building, despite revised plans showing a ridge height reduction of 0.5m being submitted. However these plans, which in any case continue to show a substantial first floor area, had already been seen by the Council before the remark was made. Moreover, the advice was general and the officer report makes clear that the reduction in height proposed was considered insufficient to have any significant bearing on the overall scale of the proposal or its impact on visual amenity.

6. Thirdly, it is argued that the Council's refusal to agree to an extension of time for the determination of the application led to an appeal that would otherwise have been unnecessary because a solution had been found. However, that is not the case. The revised plans fail to reflect the advice given by the Council which made clear in an e-mail that the proposed building was considered to be too large, unsympathetic to its edge of village location and that the size of the existing outbuilding should be used as a guide for a replacement.
7. Given the guidance previously provided, the Council was entitled to take the view that the revised plans showed the extent to which the appellants were prepared to compromise and that further negotiation would not be of benefit. It was therefore not unreasonable to refuse the application within the original period for determination.
8. Finally, the appellants allege that the Council unreasonably rejected numerous attempts to communicate with them. However, it is clear from the e-mails reproduced in the evidence that the Council did engage in both e-mail and telephone communication: including initiating contact to explain that the submitted scheme was not acceptable, setting out the reasons for this, informing the appellants of their options and later responding to the e-mail and accompanying revised plans. The fact that the Council did not in its response say what the appellants hoped to hear, particularly with respect to the revised plans, does not make the Council's behaviour unreasonable.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and that no award of costs is justified.

*KE Down*  
INSPECTOR