



Costs Decision

Site visit made on 10 February 2021

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2021

Costs application in relation to Appeal Ref: APP/Q3115/W/20/3257596 Land off Cat lane, Stadhampton, Oxfordshire OX44 7UN

- 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 Iverna Limited for a full award of costs against South Oxfordshire District Council.
 - The appeal was against the refusal of reserved matters pursuant to a grant of outline planning permission for development of two detached dwellings upon the building plot located off Cat Lane.
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Decision

1. The appeal is dismissed.

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant's claim relates to two issues. Firstly, whilst recognising that the Planning Committee can overturn an officer recommendation to approve, it is contended that Committee Members acted unreasonably through not properly evaluating the character of the area, nor the impact of the proposal in terms of height, massing or scale. The second issue relates to the Council introducing fresh and substantive evidence within their appeal submission relating to the proposal's design.
4. It is evident from the Committee Minute that Members had the opportunity to visit the site prior to listening to speakers for and against the application. The officer report whilst recommending approval also listed the concerns of interested parties raising objections some of which reflected the reason for refusal. Members would have been aware of the existence of the outline planning permission through the report and that the principle of development had therefore been agreed. But as the size of the development had not been fixed at the outline stage, it was legitimate to consider its scale, height and massing in relation to the character of the area. The Committee Minute included a summary of Members' findings and this was formalised in the refusal reason on the decision notice. The purpose of the Committee Minute was to record the decision, not to convey a detailed analysis of the reasoning behind it. When the appeal was submitted there was opportunity for the Council to expand on Members' reasoning in the Council's submission. My finding is that Members properly exercised their obligation in evaluating the proposal.

5. The summary of findings in the Committee Minute does refer to *"the design of the dwellings detracting from the character of the area and the rural setting of Cat Lane"*. The word *"design"* does not appear on the single reason for refusal of the application, but the reason is clear that harm to the character of the areas would arise through the *"scale, height and massing"* of the dwellings.
6. The assessment of the scheme in the Council's appeal submission by necessity is at odds with that in the officer report as it has to reflect Members' decision. My reading of the Council's appeal submission is that it substantially reflects the issues raised in the refusal reason. The reserved matters for consideration, *"appearance, landscaping, layout and scale"* do not expressly reference design, but the concerns relating to *"scale, height and massing"* are design concerns, in the broad sense of the word, relating to the *"layout and scale"* of the development and its impact on the character of the area. The majority of the Council's submission rightly covered such matters.
7. There is only one reference in the Council's submission that relates to a more detailed design consideration; the *"large two-storey gabled front glazed wings along the frontage result in an overtly urban aesthetic, which is not well suited to the above context"*. Whilst the applicant's Final Comments on the Council's submission queries inclusion of design comments, the analysis relates to the broader interpretation of design in the context of the *"scale, height and massing"* of the buildings and their impact on the character of the area. Even if the Council had strayed from a strict defence of the refusal reason through inclusion of a detailed design comment, this did not result in significant additional time and expense for the applicant in responding to issues outside the remit of the refusal reason.

Conclusion

8. I am satisfied that Committee Members acted reasonably in evaluating the character of the area and the impact of the proposal and that the Council was able to substantiate Members' reasoning in the Committee's decision. I do not consider that the Council introduced fresh and substantive evidence within their appeal submission relating to the proposal's design; any broadening of the case on design was brief and not substantial. It has not resulted in unnecessary or wasted expense in the appeal process. Therefore, no award of costs is made, and the appeal should be dismissed.

Rory MacLeod BA(Hons), MRTPI

INSPECTOR