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## Costs Decision

Site visit made on 25 July 2017

**by R J Marshall LLB DipTP MRTPI**

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

**Decision date: 5 September 2017**

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### **Costs application in relation to Appeal Ref: APP/Y3940/A/17/3175190 142, Netherhampton Road, Salisbury, SP2 8LZ**

- 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 J Sandford for a full award of costs against Wiltshire Council.
  - The appeal was against the refusal of planning permission for demolish and erect pair of semi-detached 3 bed houses and 2 no. detached houses.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Irrespective of the outcome of the appeal, cost may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant submitted a cost claim in writing and the Council responded in writing. The claim is for a full award of costs.
4. The Council refused planning permission against the advice of its Officers. This alone is no justification for a claim for costs. However, it is incumbent upon Councils to produce evidence to substantiate reasons for refusal. Vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis will not suffice and can lead to an award of costs.
5. In this case the Council's reason for refusal was notably vague. It said that there would be harm to amenity. However, such assertions can be read as being a concern on residential amenity or about the impact of the proposal on the character and appearance of areas. The reason for refusal did not specify which or indicate whether both are of concern.
6. If it is residential amenity that was of concern the bulk of the Council statement indicated where such amenity would not be harmed. There was no objective analysis to show that harm to living conditions would arise. It could be construed from the Committee minutes that the Council may have had in mind that the proposed development would lead to parking on Netherhampton Road to the detriment of local residents. However, no substantial evidence was provided to show that this would occur or that if it did harm to living conditions would arise. If the Council's concern related to the impact of the proposal on

the character and appearance of the area then it failed to provide any meaningful supporting evidence.

7. The Council's reason for refusal was also notably vague in its contention that there would be a limited ability to park or manoeuvre vehicles. In effect the Council's case on this point was an assertion with no meaningful supporting evidence for a decision clearly against the advice of its professional planning and highways officers. No evidence was provided to show that an inadequate number of car parking spaces would be provided. Although Tylers Close is relatively narrow no evidence was given to show that its width would unacceptably restrict the ability to park or manoeuvre vehicles.
8. No other matters stood against the proposal which accords with the development plan and which should have been permitted.

### **Conclusion**

9. In light of the foregoing I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

10. 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 Wiltshire Council shall pay to Mr J Sandford the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Wiltshire 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.

*R J Marshall*

INSPECTOR