
Costs Decision

Site visit made on 29 June 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2020

Costs application in relation to Appeal Ref: APP/Y3940/W/19/3242431 Haven Court, Marshmead Close, Clarendon, Salisbury SP5 3DD

- 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 Gavin Barrett for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission to demolish the existing 11-bedroom HMO, and to erect 5 dwellings with associated parking and access.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by Local Planning Authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant refers to the Council reason for refusal relating to landscape impact stating that the site is within the Special Landscape Area. It has been clarified that the site is not within a Special Landscape Area. However, whilst this appears to be an error with the Council's case, they have provided full and substantive comments as to why they regard the proposed development would have an impact to the landscape which they regard as sensitive. It appears that whether the site is within a Special Landscape Area or not the Council would likely have refused the proposal based on its visual impact within the landscape. As such, it is unlikely that the applicant has had any additional expense based on this error by the Council.
5. With regards the Council withdrawing their reasons for refusal with regards to drainage and ecological impacts to the adjacent County Wildlife Site, it is my view that these are important issues and it seems likely that at the time of the determination of the planning application the Council did not consider they had enough information on these issues to convince them there would be no associated harm if the development was implemented.

6. With the appeal there has been a substantial amount of information submitted by the applicant which has been forwarded to the Council. This has seemingly led them to withdraw their reasons for refusal. I do not regard such actions as unreasonable behaviour. It may well have been that without the applicant's Statement of Case and associated evidence that the Council would have maintained their refusal reasons.
7. The Council has made clear that it currently cannot demonstrate a sufficient housing land supply. As such the 'tilted balance' does apply. However, in the Council's opinion the harm as a result of the proposed development is significant and demonstrable and so even with the tilted balance, they have refused the application. I have found that they have set this out with sufficient clarity. As can be seen from my appeal decision, I have come to a different view in my planning balance to that of the Council, but nevertheless I do not regard the Council coming to a different conclusion as being unreasonable behaviour.
8. Overall, considering all matters raised, I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

S. Rennie

INSPECTOR