The Planning Inspectorate

Costs Decision

Site visit made on 17 August 2020

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

an Inspector appointed by the Secretary of State

Decision date: 5 October 2020

Costs application in relation to Appeal Ref: APP/Y3940/ W/20/3251257
Land rear of 43 & 45 Estcourt Road, Salisbury SP1 3AS

- 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 Ludlow for a partial award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for the erection of new 1.5 storey building to create 2 x 1 bed apartments.

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. The applicant states that they are applying for a partial award of costs due to the additional reason for refusal brought forward by the Council in their appeal Statement of Case, relating to the impact to the River Avon Special Area of Conservation (SAC).

4. It is not clear when the Council knew that this issue is such that it should be a reason for refusal, following information from Natural England, but the Council stated it was during the course of this appeal. Whilst it was unfortunate that this was not an issue raised at the planning application stage, it may not have been possible due to the Council not being fully aware of the issue until relatively recently.

5. In any case, the impact on the River Avon SAC is an important issue and the proposed dwellings had the potential to adversely effect the water quality of this river. Whether it was at the planning application stage or at appeal it would likely have been necessary for the applicant to consider the issue and provide a response, as they have done with this appeal. Therefore, this is an issue which had to be raised by the Council, even post planning application decision. As such, with a response being necessary from the applicant at whatever stage the issue was raised, there has been no unnecessary additional cost as a result of the Council raising this issue at the appeal stage.

6. Overall, 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