



## Costs Decision

Site visit made on 17 November 2021

**by Matthew Jones BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 November 2021**

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### **Costs application in relation to Appeal Ref: APP/Y1110/W/21/3279875 The Annexe, Melbury House, 4 Queen's Crescent, Exeter EX4 6AY**

- 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 G Hannafor for a full award of costs against Exeter City Council.
  - The appeal was against the refusal of planning permission for Change of Use of The Annexe from guesthouse (C1) to a dwelling house (C3).
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### **Decision**

1. The application is refused.

### **Reasons**

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant asserts that the Council acted unreasonably in refusing to grant planning permission on grounds which could have been addressed by conditions. Specifically, details for cycle and bin storage, and in order to secure necessary mitigation for any likely significant effect on the integrity of the SPA. Also, the Council failed to work proactively, making inaccurate assertions about the scheme and without the input of a heritage specialist.
4. I agree that the Council's concerns about the dwelling's refuse and bicycle storage could have been resolved by conditions, not least as a store is shown on the plans. However, this was a minor part of the dispute between the main parties and has been addressed briefly within the body of the applicant's appeal evidence. Any inaccurate comments made about the scheme were similarly minor and did not substantively dictate events or costs that have arisen during the appeal. The Council's findings about the CA were clearly founded and expressed without the need for input from a heritage specialist.
5. It is not at all certain that the SPA issue could have been reasonably left to a condition. This is because, as competent authority, the Council are obliged to adopt the precautionary principle and have a duty under the Habitats Regulations<sup>1</sup> to ascertain that likely significant effects can be ruled out before permission is granted. This process does not lend itself to a reliance on conditions that are to be discharged after permission has already been granted.
6. The issue with the refuse and bicycle storage could indicate a failure on the Council's part to work proactively with the applicant. However, the weight of

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<sup>1</sup> Conservation of Habitats and Species Regulations 2017

evidence before me draws the conclusion that a fair degree of dialogue had taken place between the applicant and the Council to seek to resolve the planning issues which have arisen at the site before permission was refused.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is not justified.

*Matthew Jones*

INSPECTOR