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Our Ref: APP/Y3940/W/25/3364462

Wiltshire Council
Planning Appeals
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

16 September 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Auto Services
Site Address: Carsons Yard, East Street, Warminster, Wiltshire, BA12 9NA

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

Feedback

We are committed to improving the quality of our service and experience for our customers. Please take a few minutes to give your feedback via the short survey. As stated in our customer charter, we will learn from our mistakes and work to improve how we do things.

Your feedback makes us better / https://forms.office.com/e/nLDD4REWgf

Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Jasmine Rogers
Jasmine Rogers

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

Planning Inspectorate

Appeal Decision

Site visit made on 27 August 2025

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Appeal Ref: APP/Y3940/W/25/3364462
Carsons Yard, East Street, Warminster, Wiltshire BA12 9NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr P Jenkins Auto Services against the decision of Wiltshire Council.
- The application Ref is PL/2023/02892.
- The development proposed is the demolition of existing industrial building and the erection of three town houses (re-application of 14/02782/FUL).

Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Wiltshire Council against Mr P Jenkins on behalf of Auto Services. The application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the River Avon Special Area of Conservation.

Reasons

4. The appeal site comprises an industrial building located within Warminster. The appeal proposal seeks the replacement of the existing building, with a terrace of 3 dwellings. The site is located within the catchment of the River Avon Special Area of Conservation (SAC). The SAC is a European site designated under the Conservation of Habitats and Species Regulations 2017 (the regulations) which impose a duty on the competent authority to consider, within the framework of an Appropriate Assessment, whether the development, either alone or in combination with other development, would have a significant effect on the conservation objectives of the site.

5. The Annex I qualifying features for this site which fall to be considered are 'watercourses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation'. Annex II species present include internationally important populations of Desmoulin's whorl snail, sea lamprey, brook lamprey, Atlantic salmon and bullhead. Residential development at the site, in combination with other development, has the potential to lead to adverse effects on the integrity of the SAC through an increased level of phosphorus entering the River Avon from an increase in foul water entering the river catchment via the wastewater treatment

works. The increased levels of phosphorus are preventing the conservation objectives from being achieved and causing the river to be in an unfavourable condition.

6. The Council's Strategic Appropriate Assessment[1], agreed with Natural England, explains that the potential adverse effects of increased levels of phosphorus are capable of being mitigated through the Council-led mitigation scheme. This aims to deliver phosphorus neutral development, whereby phosphorus credits are available to purchase by applicants at a fixed cost per kilogram of phosphorus, either from the Council or an approved third party.

7. The Council indicate that the above off-site mitigation solution became available to the appellant during the course of the planning application. However, without the submission of details of a nutrient budget to establish the amount of mitigation credits that were necessary, or a mechanism to agree the purchase of sufficient credits, a mitigation strategy could not be agreed. In the absence of such, notwithstanding the appellant's contention that the scale of the scheme means it would only lead to a small increase in sewage entering the system, I cannot be satisfied, beyond all reasonable scientific doubt, that the proposal would not have a harmful effect on the integrity of the SAC.

8. Even if there were no off-site mitigation credits available to purchase from the Council, as suggested by the appellant, there is no substantive evidence that there is not an adequate supply of mitigation credits for this catchment area available to purchase from elsewhere. Nor has it been demonstrated that the cost of credits from a third party provider would be prohibitively high and would therefore affect the viability of the project.

9. I recognise that the existing site would give rise to surface water run-off, which the appeal submissions indicate enters the sewage system. Nonetheless, the Council's concern lies specifically with the foul water generated by the proposed development. The appellant contends that the existing industrial unit, which includes a single toilet and wash basin, with an uncontrolled connection to the public sewer, has the potential to be used by a high volume of employees at the unit, which could generate a volume of wastewater equivalent to that of the proposed townhouses. While I am mindful of the existing commercial use of the site, there is no substantive evidence that the business use of the site would be likely to generate a comparable volume of foul water to that of the appeal scheme.

10. Furthermore, while there may not be sufficient space within the gardens of the properties to provide on-site mitigation, there is no clear evidence why the Council-led mitigation scheme outlined above could not be secured. Thus, given the uncertainty regarding the effects of the development and whether suitable mitigation could be secured, it would not be appropriate to impose a planning condition to agree these details.

11. Consequently, as there is no mechanism to secure mitigation, such as a planning obligation, before me now, I am unable to conclude, following appropriate assessment, that the proposed development, in combination with other development, would not have a harmful effect on the integrity of the SAC. Accordingly, the proposal would conflict with the aims of Core Policy 50 of the Wiltshire Core Strategy, adopted January 2015 (WCS) which require development

[1] Strategic Appropriate Assessment of Developments in Wiltshire Occurring in the River Avon SAC Catchment

proposals to incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development, and Core Policy 69 of the WCS which sets out that, in order to avoid and reduce potential environmental effects on the SAC, development will need to incorporate measures to avoid and prevent pollution.

Other Matters

12. The site is also within the buffer zone of the Salisbury Plain Special Protection Area (SPA). Had the proposal been acceptable in other regards, it would have been necessary for me to have undertaken an appropriate assessment with regards to the likely significant effects of the development on the SPA. However, in view of my findings in relation to the main issue, resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

13. The proposal would offer benefits in terms of housing supply which is a key objective of the National Planning Policy Framework (the Framework), which seeks to significantly boost the supply of housing. In addition, the units would be modest in size and therefore likely to be affordable, and in a location where future occupiers would have access to local amenities and facilities by means other than the private car.

14. The appellant contends that the proposal would enable the existing vehicle repair business, which is now surrounded by residential properties, to relocate elsewhere. In addition, it is suggested that an alternative industrial use of the building could give rise to an increase in vehicular movements to and from the site as well as the days and hours the business operates. However, there is no substantive evidence as to why the existing business use of the site could not continue, or that an alternative similar business could not operate from the site, without detriment to the living conditions of the occupiers of nearby residential properties.

15. The Council indicates that it is unable to demonstrate an adequate supply of housing land. In such circumstances, paragraph 11 d) of the Framework falls to be considered. However, for the reasons set out above, the application of policies in the Framework that protect habitats and biodiversity provide a clear reason for refusing the development proposed and the proposal would not benefit from the presumption in favour of sustainable development detailed in paragraph 11 of the Framework.

16. Even if Natural England had issued a standing objection to new residential development in the area at the time the application was submitted, this would not be a reason for the Council not to validate the application, or not to seek further information required to make it complete.

17. I note the appellant's frustration with the way in which the planning application was dealt with by the Council, nonetheless, this appeal is to be determined on the planning merits of the proposal before me.

18. While the proposed development may be the same as a scheme which was previously approved by the Council, and similar to surrounding residential development for which permission has been granted, I have determined the appeal on its own merits, based on the evidence and the current policy context.

Conclusion

19. The proposal would include benefits associated with the supply of additional housing, in a location where future occupiers would not be wholly reliant on the private motor car. Set against this, my findings in respect of the SAC and associated policy conflict results in a conflict with the development plan, read as a whole. There are no other material considerations that indicate that permission should be granted. The appeal should therefore be dismissed.

E Worley

INSPECTOR

Planning Inspectorate

Costs Decision

Site visit made on 27 August 2025

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/25/3364462
Carsons Yard, East Street, Warminster, Wiltshire BA12 9NA

- 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 Wiltshire Council for a full award of costs against Mr P Jenkins on behalf of Auto Services.
- The appeal was against the refusal of planning permission for the demolition of existing industrial building and the erection of three town houses (re-application of 14/02782/FUL).

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The Council's reason for refusal of the planning application relates solely to the potential effects on the development upon the River Avon Special Area of Conservation. It contends that the appellant has acted unreasonably on substantive grounds, on the basis that they failed to provide the necessary technical information, including a phosphorus nutrient budget, in order to enable the Council to fully assess the proposal. In addition, the Council allege that, despite requests for the additional information, the appellant failed to engage with the Council to secure the necessary mitigation.

4. Notwithstanding the dearth of technical information, the appellant indicates that, despite a willingness to adopt the approach suggested by the Council, the absence of mitigation was primarily due to the lack of availability of credits for the site. As such, they were therefore unable to adopt the Council-led mitigation scheme. In addition, the appellant contends that the cost of credits available to purchase privately was excessive and therefore had implications on the viability of the scheme. However, I have not been provided with any clear evidence in these regards, or any substantive evidence of any discussions between the Council and the appellant.

5. Furthermore, the appellant has put forward other material considerations they feel are relevant to the case, including the fallback position of the existing use of the building and its connection to the existing sewerage system.

6. Although I have come to the decision not to grant planning permission, given the matter in dispute and clear disagreement between the parties regarding the approach in this instance, I do not consider that the applicant has behaved unreasonably or that the appeal could have been avoided altogether. Therefore, no additional costs on behalf of the Council have been incurred in that regard.

Conclusion

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

E Worley

INSPECTOR