



Costs Decision

Site visit made on 18 May 2021

by C Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 3 June 2021

Costs application in relation to Appeal Ref: APP/D0840/W/20/3264701 Two Stiles, Treyarnon Lane, St Merryn, Padstow PL28 8JT

- 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 Cornwall Council for a full award of costs against Sue Walters of Situ8 Ltd.
 - The appeal was against the refusal of planning permission for construction of 5 houses and associated works with diversion and relocation of public right of way.
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Decision

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

Reasons

2. Paragraph 053 of the PPG¹ lists examples of behaviour which may give rise to a substantive award of costs against an appellant. The Council draw attention to the first example listed, which is where *the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.*
3. The Council quote Policy 3 of the Local Plan² in its reasons for refusal. This allows new development to take place outside the main towns under certain conditions, including 'rounding off'. Paragraph 1.68 of the plan describes rounding off as development that is substantially enclosed but outside of the urban form of a settlement and where its edge is clearly defined by a physical feature that also acts as a barrier to further growth. In its costs application, the Council state that *the appellant, whilst mentioning these issues, completely ignores them and doesn't even attempt to address them. This either a convenient omission or completely negligent.*
4. I disagree with the Council's stance. The appellant's appeal statement directly addresses this matter and says *the site has development on three sides (houses and public highways). The site also borders the dwelling house known as Two Stiles to the west, together with the public highway C57 to the south and the B3276 to the east and the dwellings of Trehemborne Meadow also the approved site referenced PA18/00642.* In my view, this is a reasonable attempt to justify the scheme as rounding off under Policy 3.

¹ Planning Practice Guidance, Ministry of Housing Communities & Local Government, November 2016.

² Cornwall Local Plan Strategic Policies 2010-2030.

5. Furthermore, Policy 3 relies on a planning judgement being made about how the site in question relates to surrounding development. Hence, the definitions of both 'rounding off' and 'infill' provided within the plan are inevitably open to a degree of interpretation. Although the Council may not agree with the appellant's interpretation of Policy 3, it is not an entirely clear-cut situation and reasonable evidence has been provided to help substantiate the appellant's argument that the proposal would be in accordance with the plan.
6. The appellant provided various examples of planning permissions that have been granted elsewhere in the vicinity of the site. The Council describe these as *being confused* and *offering no support whatsoever to the case*. However, the circumstances of each case will inevitably differ and the planning permissions quoted do have some relevance to the appeal. A number of the examples were used to address the second reason for refusal which says that the development would encourage short journeys by private car. The appellant uses these cases to argue that development has been permitted elsewhere in the area in less accessible locations than the appeal site. I appreciate that the appellant provides more information about some cases than others, but this is not a matter that justifies an award of costs.
7. The Council also say that the appellant's visual assessment has *completely underestimated the impact of the development*. However, visual impacts are partly subjective and the appellant engaged qualified consultants to carry out a methodical appraisal of the scheme. Even though the Council don't agree with the conclusions of the consultant's report it cannot be said that the appellant has provided inadequate evidence on this matter.
8. Similarly, the appellant's transport assessment was carried out by a qualified consultant, and although it reaches conclusions which the Council don't agree with, it is supported by clear reasoning and evidence. One specific point raised by the Council is that the appellant *totally ignores the lack of visibility to the south of the junction*. However, the appellant's Transportation Advisory Note includes a direct quote from the Council's highway officer which says that the *intensification of use of this substandard junction without improvement to sight lines, particularly to the south, would be detrimental to highway safety*. Below this quote, the consultant makes it clear that the *existing restricted emerging visibility at the junction is not disputed* but the report then goes on to argue that the proposed development would not intensify use to any harmful extent. Therefore, I do not accept the Council's claim that the issue of restricted visibility was totally ignored by the appellant.
9. While I appreciate that no pre-application advice was sought, this is not compulsory and would not necessarily have prevented the application and subsequent appeal even if had been sought.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. This is not an example of the behaviour described in paragraph 053 of the PPG.

C Cresswell

INSPECTOR