



Costs Decision

Site visit made on 15 November 2022

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

**Costs application in relation to Appeal Ref: APP/X1118/W/22/3300911
1 Cross Park, Maytree Cottage, Road From Cross Park To Lower Down
Copse, Berrynarbor EX34 9SZ**

- 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 and Mrs Boxhall for a full award of costs against North Devon District Council.
 - The appeal was against the change of use of land to allow siting of 2 shepherd huts for holiday accommodation.
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG), at paragraph 030, 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 appellant's application for costs comprises the following claim against the Council for unreasonable behaviour:
 - failing to provide evidence to support their reasons for refusing planning permission or to provide evidence that their interpretation of adopted policy is made on any credible basis.
4. The appellant states that the appeal was unnecessary as the proposed development complies with the development plan and there were other considerations that the Council failed to take into account when reaching its decision.
5. However, on the decision notice, it is complete, precise, specific and relevant to the application, and includes the local and national planning policies the proposed development would conflict with. In the officer report, the Council have set out how the appeal scheme would harm highway safety and that the site is not an appropriate location for tourism accommodation.
6. As I have found that the development meets an exception to Policy ST07 as it "constitutes development which is necessarily restricted to a countryside location" exception, I do not agree with the Council in respect of this policy. However, in the officer report, the Council have demonstrated and substantiated the balance of the appeal scheme against the relevant development plan policies it has undertaken. As such, I do not consider that

the Council has determined the case on its merits, in a similar approach to the balance undertaken on the farm diversification planning applications¹.

7. Having regard to all the evidence before me, I have similar concerns as the Council with the safety of the junction between Cross Lane and the access track and have not been persuaded that the required visibility splays could be accommodated. Additionally, any benefit to the tourism economy through the provision of two shepherd huts, would be small and would not outweigh the harm I have identified.
8. Accordingly, I do not conclude that the Council failed to provide evidence in support of their reasons for refusing planning permission, nor that their interpretation of adopted policy has been made on a credible basis. I have found that the Council had reasonable concerns about the impact of the proposed development and justified its decision. The appeal, therefore, could not have been avoided.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Juliet Rogers

INSPECTOR

¹ Application Refs 70814 and 75344