



22 JUN 2011

Received

## Appeal Decision

Hearing held on 5 May 2011

Site visit made on 5 May 2011

by **G M Hollington MA, BPhil, MRTPI**

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

Decision date: 21 June 2011

**Appeal Ref: APP/P0119/A/10/2141502**

**The Meadows, Parkfield Road, Pucklechurch, Gloucestershire, BS16 9NS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Tracey Williams against the decision of South Gloucestershire Council.
- The application Ref. PK10/0711/F, dated 25 March 2010, was refused by notice dated 15 November 2010.
- The development proposed is the use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hard standing and utility/dayroom ancillary to that use together with retention of an existing stable block.

### Application for Costs

1. At the Hearing, an application for costs was made by Mrs Tracey Williams against South Gloucestershire Council. This application is the subject of a separate Decision.

### Decision

2. I allow the appeal, and grant planning permission for the use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hard standing and utility/dayroom ancillary to that use together with retention of an existing stable block at The Meadows, Parkfield Road, Pucklechurch, Gloucestershire, BS16 9NS in accordance with the terms of the application, Ref. PK10/0711/F, dated 25 March 2010, subject to the conditions set out in the schedule at the end of this decision.

### Procedural Matter

3. Following an earlier announcement that he intends to revoke ODPM Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites*, the Secretary of State has published a consultation document in which he explains that the current planning policy for traveller sites does not work and that a new approach is needed. Whilst the current Circular has yet to be revoked, the substance of the consultation document gives a clear indication as to the Government's intended direction and is therefore a material consideration. Nevertheless, as the consultation may prompt amendments to the draft

guidance and because the Circular remains in place, I am bound still to have significant regard to the latter in determining this appeal.

### Main Issues

4. The main issues are:
- (a) the effect of the proposed development on the openness of the Green Belt and the purposes of including land in it;
  - (b) the effect of the proposed development on the visual amenities of the Green Belt; and
  - (c) whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

### Reasons

5. There is no dispute between the parties that the proposed development should be regarded as inappropriate development in the Green Belt for the purposes of Planning Policy Guidance note (PPG) 2: *Green Belts* and Green Belt policy. I agree with that position.

(a) Openness of the Green Belt and the purposes of including land in it

6. Small stables may be regarded (as in PPG2) as new buildings which are not inappropriate in the Green Belt but in this case a large stable building would be supplemented by a mobile home, touring caravan and utility/dayroom. The Green Belt would therefore suffer a reduction in its openness, which paragraph 1.4 of the PPG points out is its most important attribute.

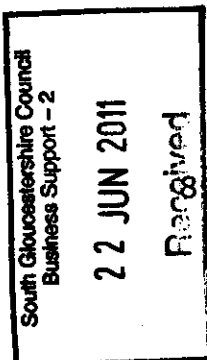
7. The proposal would also represent an encroachment of development into the countryside, thus conflicting with one of the five purposes of including land in Green Belts. However, the extent of encroachment and the reduction in openness would both be limited by the modest size of the site, accommodating a single gypsy pitch.

Nevertheless, I conclude on this issue that the proposed development would not accord with the aims of PPG2, Circular 01/2006, policy GB1 of the South Gloucestershire Local Plan (adopted January 2006) and policy 16 of the Structure Plan<sup>1</sup>.

(b) Visual amenities of the Green Belt

9. The appeal site is outside the Village Settlement Boundary of Pucklechurch, in countryside which generally slopes down to the west from the line of houses along Parkfield Rank. The area comprises fields, in many of which horses are kept, interspersed with trees and hedges and with a scatter of dwellings. The horses and public footpaths are indications of the area's value for recreation, on the eastern fringe of Bristol. The introduction of the mobile home, touring caravan and utility/dayroom would detract from the largely rural nature of the area and be harmful to the Green Belt's visual amenities.
10. However, even allowing for the time of my visit when trees were in leaf, the site is well screened from public views along the nearest footpaths. The

<sup>1</sup> Bath & North East Somerset, Bristol, North Somerset and South Gloucestershire Joint Replacement Structure Plan, adopted September 2002.



substantial conifers along the western side of the site would effectively screen the mobile home and utility/dayroom from any longer distance view from the west, and the dense hedge to the east would largely screen the development from the public footpath beyond.

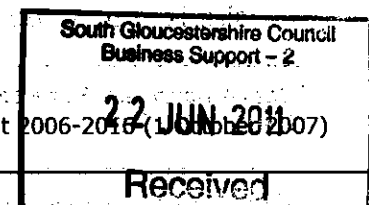
11. I acknowledge that, in the latter of the two previous appeal decisions<sup>2</sup> regarding similar development on the site, the Inspector considered there would be visual harm in this isolated hilltop position in open countryside. However, the site is above a break in slope rather than on the higher ground near Parkfield Rank and I would expect the conifers to have grown considerably over the last six years. I note also that the Council's landscape officer considers the site to be well integrated into the landscape by existing planting that has recently been reinforced by the planting of new hedgerows on land in the appellant's ownership.
12. My conclusion on this issue is that the proposed development would result in some harm to the visual amenities of the Green Belt and therefore conflict with the aims of PPG2, Circular 01/2006, Local Plan policy GB1 and Structure Plan policy 16.

(c) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development

13. The appellant puts forward a range of material considerations which she contends cumulatively easily outweigh any harm and amount to very special circumstances to justify a permanent permission. The context for these is that the appeal site would be occupied by Mrs Tracey Williams and her children Mia (aged 22 years), Charles (19), Lana (18) and Georgia (17). It is not disputed by the main parties that the family are "gypsies and travellers" as defined in Circular 01/2006; although it was Mrs Williams' husband whose work gave him a nomadic habit of life and the couple has recently separated, it would be unreasonable in these circumstances to come now to a different conclusion regarding the family's status.
14. As in the previous appeal decisions concerning this site, the local planning authority (LPA) acknowledges there is a need for gypsy and traveller sites in the area. In the light of the unmet need, the Secretary of State served on the Council in 2006 a Direction with regard to bringing forward a Gypsy & Traveller Development Plan Document (DPD) consisting of site allocations.
15. Since then, the GTAA<sup>3</sup> has estimated requirements for residential pitches in the District of 48 (2006-2011) and 22 (2011-2016); the corresponding figures for the whole study area are 127 and 44, respectively. The Report of the Panel considering the Review of Additional Pitch Requirements for Gypsies and Travellers for the Regional Spatial Strategy (RSS) for the South West recommended a District residential pitch requirement to 2011 of 58. While the Government's intention to revoke such strategies has been announced and the review of the RSS for the South West is unlikely to be completed, the data on which it was based is of relevance.

<sup>2</sup> Refs: APP/P0119/A/03/1115541 and APP/P0119/C/04/1154109 & 1154110

<sup>3</sup> West of England Gypsy Traveller Accommodation (and other needs) Assessment 2006-2016 (Updated 2007)



16. The LPA estimates that, taking into account planning permissions since 2006, there remains an outstanding need for some 40 residential pitches. A further indication is provided by the published Government counts, the last five of which tabulated 14-68 caravans on unauthorised sites in the District. Combined also with the national need for sites acknowledged by Circular 01/2006, the local and wider needs are a factor of significant weight in support of the proposed development.
17. There are in the District two local authority residential gypsy sites, both of which are full but where there were seven vacancies in each of the last two years. However, the Gypsy Liaison Officer advised the appellant that there was little point in applying for a place on these in view of the long waiting lists and her being on at least some sort of site. There is one private site of five pitches being developed at Wickwar, although this would be less well suited to the appellant's personal circumstances (see below).
18. Mrs Williams has not made other efforts to find a site in recent years but this may be explained in part by the hope of staying where she is. The site was included in the DPD *Towards Preferred Options* Consultation as a safeguarded site and similarly treated in policy CS21 of the South Gloucestershire Core Strategy Pre-Submission Publication Draft (but subsequently deleted from that policy). I therefore consider the lack of alternative sites to be a supporting factor of moderate weight.
19. Despite the acknowledged need, the 2006 Direction and the intention of Circular 01/2006 to increase the number of sites to address under-provision over the next 3-5 years, the LPA has yet to allocate land for any additional sites. Work on the DPD has been halted and the provision of sites will now be addressed by the Core Strategy, adoption of which is expected by early 2012. Government announcements have introduced uncertainty but the continuing failure to date of policy to bring sites forward is a factor of considerable weight in support of the proposed development.
20. It is not disputed that only about 25% of South Gloucestershire is not urban area, Green Belt or part of an Area of Outstanding Natural Beauty (AONB). Core Strategy Policy CS21 allows for the intensification of existing family sites, whether or not they are in the Green Belt/AONB, but the Wickwar permission suggests some sites may be found in countryside outside specially protected areas. The appellant acknowledges some sites could be found outside the Green Belt; I agree with this and so I give this consideration limited weight in support of the proposal.
21. I turn now to the personal circumstances of the appellant and her family. They have been living on the site since March 2001 but the change of use has been unauthorised, with only an extended period for compliance being given between March 2005 and July 2007, primarily for education reasons. Their length of residence would have enabled them to establish local connections but, on its own, I do not consider this to merit any material weight (I consider elsewhere the matters of education and family support in their own right).
22. Mrs Williams has a several health difficulties, including heart problems, asthma and emphysema, and is on anti-depressants; she is registered with a GP in Pucklechurch and occasionally attends hospital in Bristol. Charles suffers from on-going pain after a motorcycle accident and Lana continues to have ear problems.

23. It seems to me that the family's health difficulties are not particularly unusual or special compared with the wider community but Circular 01/2006 refers to the link between the lack of good quality sites for gypsies and travellers and poor health. I consider Mrs Williams, in particular, would benefit from a settled location where she may readily access GP and other health services but, in principle, this benefit cannot only be provided by the appeal site. I attach moderate weight to health matters as a supporting factor.

24. Charles has completed his mechanic's apprenticeship at a garage in Bridgegate and is now doing a MOT tester course. Lana and Georgia are both at college; Georgia hopes to move on to another college and has applied for a University place. To continue in education/training is unusual for gypsy and traveller children, and Circular 01/2006 also refers to the link between the lack of good quality sites and poor education.

25. The period for compliance resulting from the last appeal was intended to tie in with a "window" in the children's education (GCSE exams) but they have now progressed to a stage where I consider having to move would to some extent be disruptive and hinder access to education but it would be less critical than previously. It is a matter to which I give modest weight.

26. Mrs Williams' parents live about two miles away, in Pucklechurch; both, but particularly her mother, have health problems and so they are assisted by Mrs Williams and her children. The parents' site could not accommodate additional occupants and caring for them would be more difficult if Mrs Williams lived further away, especially if she did not have a settled site. Members of the settled community may also benefit from the support of other family members but I acknowledge that the benefit to elderly parents would add some weight in favour of the proposal.

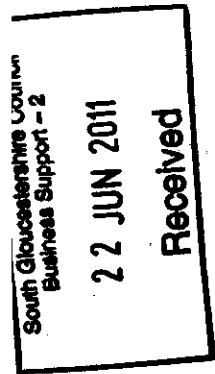
27. If this appeal were dismissed, it is likely that the LPA would instigate enforcement action and the site's occupiers would be evicted. It is not certain that alternative accommodation (available, affordable, acceptable and suitable) would be readily available and so there is a reasonable likelihood they would have to adopt a roadside existence which would be detrimental to health care, education and family support.

28. This would interfere with Mrs Williams' home and family life but I consider it would not itself outweigh the harm to the Green Belt, its openness and purposes and visual amenities. Especially because of the lack of any particularly significant health or education needs, I consider that dismissal of the appeal would not have a disproportionate effect on the rights of Mrs Williams and the family under Article 8. Their human rights are, therefore, not a significant factor in favour of the proposal.

#### *Conclusion*

29. I shall now consider whether the other considerations clearly outweigh the harm by reason of inappropriateness and any other harm, so as to amount to the very special circumstances necessary to justify the development.

30. I have come to the view that the proposed development would be inappropriate in the Green Belt; substantial weight must be attached to the harm to the Green Belt arising from such development. There would be some additional harm from a reduction in openness and the encroachment of development into



the countryside, but these would be limited by the modest size of the development. The detracting from the largely rural nature of the area and harm to the Green Belt's visual amenities would be only moderate because of the site's position and its considerable degree of screening.

31. Of the other considerations which might weigh in favour of the development, the need generally for gypsy and traveller sites (nationally, regionally and locally) is a supporting factor of considerable weight. This is supplemented to some extent by the lack of suitable alternatives (bearing in mind knowledge of a private site at Wickwar, albeit less well suited to the appellant).
32. The continuing failure of LPA policy to bring sites forward adds considerable weight in support of the development. As it is possible some sites might be found outside specially protected areas, the extent of these areas across the District attracts limited weight as a supporting factor. The family's personal circumstances are such that they add some weight in favour of the proposal but their human rights do not add significantly to this.
33. For there to be very special circumstances, the combined weight of the other considerations which support the appellant's case must clearly outweigh the harm from inappropriateness and other harm. Although the harm from inappropriateness is substantial, the other forms of harm are not and I consider the combined weight of the other considerations is sufficient to outweigh clearly the totality of the harm. The very special circumstances to justify the development do, therefore, exist.
34. I have also taken into account all the other matters raised at the Hearing and in the written representations, including local residents' concerns, but they do not outweigh the considerations which have led to my conclusions on the main issues.

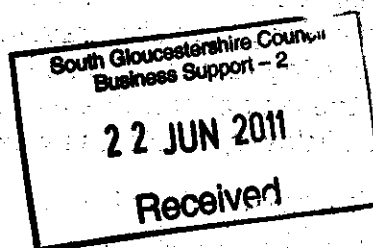
#### Conditions

35. I have considered the need for conditions in the light of the advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. With such a condition, it is not necessary also to define what the pitch comprises.
36. In view of my conclusions, it is not necessary to limit permission to a temporary period only – the harm is clearly outweighed by the supporting considerations. It is necessary to limit occupation to gypsies and travellers in general, to ensure the site continues to meet these special needs. There are not sufficiently pressing personal factors to warrant limiting occupation to named individuals.
37. To minimise the effects on the Green Belt and the surrounding area's character and appearance, conditions are needed to control the number of caravans, prevent commercial activities, limit the size of vehicles and ensure the stable block is used only for the keeping of horses. Given the substantial degree of existing screening, additional landscaping is not necessary.
38. Some re-wording of the suggested conditions is also necessary in order to clarify their wording and to reflect Circular advice, while not altering their aims; in particular, it is necessary to reflect the commencement of development by

requiring a site development scheme to address the matters of drainage, hard-standing areas and roofing materials, in order to ensure satisfactory means of drainage are provided and the area's appearance is not harmed.

*G M Hollington*

INSPECTOR



### Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered 09\_273\_001, 09\_273\_002, 09\_273\_003, 09\_273\_004 and 09\_273\_005.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) There shall be no more than one pitch on the site and on the pitch hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a residential mobile home.
- 4) No commercial activities shall take place on the land, including the storage of materials.
- 5) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 6) The stable block hereby permitted shall be used for no purpose other than those uses associated with the keeping of horses.
- 7) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
  - i) within 3 months of the date of this decision a scheme for the means of foul and surface water drainage of the site and details of the hard-standing areas and the roofing materials to be used in the construction of the utility/dayroom (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation.
  - ii) if within 11 months of the date of this decision the site development scheme has not been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State.
  - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.

## APPEARANCES

### FOR THE APPELLANT:

Mr M Green	Partner, Green Planning Solutions LLP
Mrs T Williams	Appellant
Ms M Williams	Appellant's daughter

### FOR THE LOCAL PLANNING AUTHORITY:

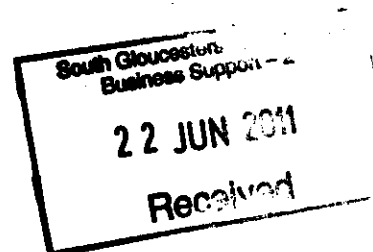
Miss T Price, BA(Hons), BTP, Planning Officer, South Gloucestershire Council  
MRTPI

### INTERESTED PERSONS:

Mr M Watson	Member, Pucklechurch Parish Council
Mrs C Attrill	Local resident
Mr B Williams	Local resident
Mrs J Cox	Local resident
Mrs A Smith	Local resident
Mr D Belcher	Local resident

## DOCUMENTS

- 1 Appeal decision Ref. APP/Y3615/A/10/2131590 (Glaziers Lane, Normandy, Guildford), submitted by the appellant
- 2 Witness statement of Mrs T Williams, submitted by the appellant
- 3 Statement by Mr M Watson on behalf of Pucklechurch Parish Council
- 4 Bundle of representations from local residents







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## Costs Decision

Hearing held on 5 May 2011

Site visit made on 5 May 2011

by **G M Hollington MA, BPhil, MRTPI**

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

Decision date: 21 June 2011

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### **Costs application in relation to Appeal Ref: APP/P0119/A/10/2141502 The Meadows, Parkfield Road, Pucklechurch, Gloucestershire, BS16 9NS**

- 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 Mrs Tracey Williams for a full award of costs against South Gloucestershire Council.
  - The Hearing was in connection with an appeal against the refusal of planning permission for the use of land for the stationing of caravans for residential purposes for 1 no. gypsy pitch together with the formation of additional hard standing and utility/dayroom ancillary to that use together with the retention of an existing stable block.
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### **Decision**

1. I allow the application for an award of costs in the terms set out below.

#### **The Submissions for Mrs Williams**

2. The primary issue is the failure of the Council to take into account a condition (temporary permission) which it should have and which may have led to a grant of planning permission which would have avoided the need for this appeal. The Council is obligated to consider temporary consent by paragraphs 45 and 46 of ODPM Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites* and the general requirement to consider whether a condition would make development acceptable. This is addressed by paragraphs B25 and B29 of Circular 03/2009: *Costs Awards in Appeals and Other Planning Proceedings*.
3. It is unclear from the committee minutes but it is clear from the very reasonable evidence of a third party (not a supporter of the proposed development) that temporary consent was not addressed as it should have been; members were not informed of the substantial weight which should be given to unmet need; and they were not informed of case law that the harm carries less weight if permission is temporary. This would lead to a different planning balance which the Council failed to take. It is not obvious that members considered permission should not be temporary.
4. The Council failed at the appeal stage to substantiate why it had not granted temporary consent (the only reference to this is in the minutes); such failure is addressed by paragraphs B15 and B16 of Circular 03/2009. The reasons for refusing permission for a gypsy and traveller site cannot be substantiated if temporary consent has not been considered.

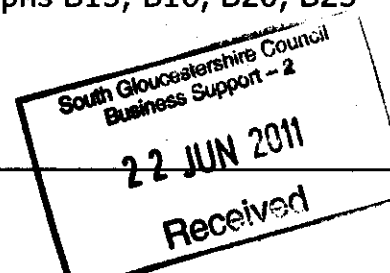
5. The secondary issue is the visual amenities reason for refusal. Members did not attend a site visit but relied on the two previous appeal decisions, the younger of which is five years old. The Council's landscape officer considered that changes since 2005 led him to conclude that the site is well integrated into the existing landscape. In the face of that, this reason seems unreasonable and this is compounded by the failure to substantiate the reason with evidence apart from the previous appeal decisions. One would expect to see some analysis of why there would not be harm to visual amenities. There were no reasonable planning grounds for taking a decision contrary to the officer's recommendation. Such behaviour is addressed by paragraph B20 of Circular 03/2009.
6. In respect of both issues, the Council acted unreasonably. A full award of costs is sought as, had the matters been properly considered, permission (even if only temporary) would have been granted; there would have been no appeal and no costs would have been incurred.

### **The Response by South Gloucestershire Council**

7. With regard to the matter of temporary consent, members had regard to the submitted application and placed greater emphasis on the previous appeal decisions; they did not place the same weight as officers on the Core Strategy (CS) and Gypsy and Traveller Development Plan Document (DPD) because of the stage they have reached. It was felt that the harm would not be clearly addressed or overcome by imposing a temporary condition and, in the absence of very special circumstances, refusal was recommended. Unmet need was raised in the officer's report.
8. In respect of visual amenities, members are not bound by officers' recommendations – the landscape officer made his recommendation but members put greater emphasis on the previous appeal decisions. The landscape officer recognised the impact would be limited; this was acknowledged by the planning officer, who also addressed other material considerations (the CS and DPD). It has clearly been demonstrated at the Hearing that there would be harm to visual amenities because of the nature of the site and its surroundings.

### **Reasons**

9. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only 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.
10. In this instance, I consider the case for an award of costs rests on whether the local planning authority (LPA) showed it had considered the possibility of imposing a temporary planning condition to allow development to proceed; whether the LPA prevented or delayed development which clearly should be permitted having regard to the development plan, national policy statements and any other material considerations; and whether it produced relevant evidence on appeal to support the decision contrary to officers' professional or technical advice. These tests are set out in paragraphs B15, B16, B20, B25 and B29 of Circular 03/2009.



11. The planning application was referred to the Development Control (East) Committee with a planning officer's recommendation to grant permanent planning permission (subject to conditions), as the harm was outweighed by very special circumstances. The committee minutes record that the Area Planning Manager advised members that, at this early stage in the CS process, a temporary consent could be agreed as a way forward.
12. This suggests members were at least aware of this possibility but, from the recollection of Mr Watson, it appears that there was no other committee consideration of whether temporary permission could be appropriate – no case law was cited and there is no evidence of any reference to the relevant parts of Circular 01/2006 or the lesser degree of harm which could result from a development's presence for a limited time period. Had proper consideration been given to this matter, the LPA's overall judgement could have differed and a development which was prevented could have been permitted. Although I have concluded temporary permission would not be appropriate, the LPA's behaviour in this respect of this matter was unreasonable.
13. With regard to visual amenities, the case officer's and landscape officer's views were set out in the report to committee but, as explained in the LPA's statement and at the Hearing, members gave greater weight to the harm as identified and upheld by previous Inspectors' decisions.
14. Many planning applications are determined without a formal site visit and to do so is not itself unreasonable. Visual amenities are largely a matter of subjective judgement but I would expect some changes to have taken place since the previous appeal decisions (as the report to committee acknowledges). Neither in its statement or at the Hearing did the LPA provide realistic and specific evidence about the consequences of the proposed development now in respect of visual amenities; such behaviour was unreasonable.
15. My conclusion is that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has been demonstrated and that an award of costs is justified.

### **Costs Order**

16. In exercise of my powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other powers enabling me in that behalf, I HEREBY ORDER that South Gloucestershire Council shall pay to Mrs Tracey Williams, the costs of the appeal proceedings, such costs to be assessed in the Senior Courts Costs Office if not agreed. The proceedings concerned an appeal more particularly described in the heading of this decision.
17. The applicant is now invited to submit to South Gloucestershire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*G M Hollington*

INSPECTOR

