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## Costs Decision

Inquiry held on 28 March 2017

Site visit made on 28 March 2017

**by Simon N Hand MA**

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

**Decision date: 24 April 2017**

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### **Costs application in relation to Appeal Ref: APP/J9497/C/16/3150827 Land at Little Down, Sigford, Newton Abbot, Devon, TQ12 6JS**

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Graham Williams for a full award of costs against Dartmoor National Park Authority.
  - The inquiry was in connection with an appeal against an enforcement notice alleging the material change in use of the Land from agriculture to a mixed use for agriculture and residential purposes, including: (a) the siting of a portacabin used for residential purposes, sited in the approximate position shown edged in blue on the Plan; and (b) the use of part of an agricultural building for residential purposes.
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### **Decision**

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

### **The Case for the Parties**

2. The appellant's argument is effectively that had the Authority carried out a proper enforcement investigation they would have realised that a dwelling had been created in the barn and that had taken place more than four years ago.
3. The Authority respond that their evidence was clear that a single dwelling had not been created, but the use was split between two structures, the barn and the portacabin. Therefore the relevant time period was 10 years not 4.

### **Reasons**

4. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who have behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. Setting aside the discussion about the planning unit, the outcome of the ground (d) appeal turned not only on the creation of the dwelling but whether it had been occupied continuously for 4 years or more. Given the appellant's statements and the further evidence that became available at the Inquiry from other witnesses as well as the appellant, this was clearly an arguable point. Although I did not agree with the Authority on this, it does not follow it was unreasonable of them to pursue it, and the appellant was not put to the wasted costs of an appeal.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated and an award of costs is not justified.

*Simon Hand*

Inspector