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## Costs Decision

Site visit made on 14 January 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> February 2025

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### **Costs application in relation to Appeal Ref: APP/D0840/W/24/3347784**

**Land adjacent to Antron Bungalow, Church Road, Mabe Burnthouse, Penryn, Cornwall, TR10 9JE**

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Trevor Howells for a full award of costs against Cornwall Council.
  - The appeal was against the refusal to grant permission in principle for the construction of up to 2 dwellings (minimum of 1 dwelling maximum of 2 dwellings).
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG reference to “*unreasonable*” should be used in its ordinary meaning.
3. The Appellant’s application for costs raises substantive points. The PPG states that local planning authorities (LPA) will be at risk of an award being made against them if they fail to produce evidence to substantiate their reasons for refusal.
4. The Appellant contends that the LPA did not exercise their duty to consider the application in a reasonable manner, they misunderstood and misapplied policy and that their decision was not based on any objective analysis. The LPA, therefore, prevented development which should have been permitted resulting in the Appellant incurring the unnecessary or wasted expense of an appeal.
5. From the reason for refusal, the LPA’s Delegated Report (LDR) and the documents submitted with their Questionnaire, I fully understood the LPA’s reasoning and the case it was putting forward. Any queries or lack of clarity arising from the LDR were, in my view, addressed in the LPA’s Statement of Case. Based on all of this evidence, I recognised that as well as an objection to the impact of the appeal proposal on the character and appearance of the area, the LPA’s objection related to whether Antron was a settlement and if so whether the appeal site was suitable for the development proposed having regard to local and national policies on the location of new housing.

6. Whilst I found that Antron did have a form and shape and could be considered as a settlement, that was based on my own assessment of the submitted evidence. It was a finding that was reached 'on balance'. There were a number of steps to that assessment, including interpreting policy 3 and its supporting text, as well as the guidance within the Chief Planning Officers Advice Note: Infill/Rounding-off (CPOAN). I also had regard to my observations on site and applied my planning judgement to those considerations in reaching a finding on the issue. In doing so, I had regard to the LPA's position and its reasoning.
7. The LPA applied its own judgement to the relevant policies and considerations, and what it saw as a change in circumstances. It sought to justify the reasons for its position through its SOC. That is an entirely reasonable approach for it to take. Whilst, on balance, I did not agree with their findings, in relation to the form and shape of Antron, I do not consider that the LPA behaved unreasonably in its presentation of or the evidence it submitted in support of this specific aspect of the case.
8. Even so, my understanding of the LPA's position was that, notwithstanding the finding in relation to whether Antron was a settlement or not, they did not, in any case, consider that the appeal proposal represented either infill or rounding-off. As set out in my main decision, I concurred with the LPA's findings in this respect. The CPOAN makes clear that what constitutes infill or rounding-off should be assessed on a case by case basis. That is consistent with the established principle that each proposal should be assessed on its individual merits having regard to local context and circumstances of the case. Reaching a finding on all these issues required an interpretation of the policy, its associated guidance, as well as a thorough review of the submitted evidence, and then the application of planning judgement.
9. Given the above, I cannot agree that the LPA acted unreasonably in this case.

### **Conclusions**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A full award of costs is, therefore, not justified.

*G Roberts*

INSPECTOR