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## Costs Decision

Site visit made on 11 December 2024

**by E Worley BA (Hons) Dip EP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 March 2025**

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### **Costs application in relation to Appeal Ref: APP/D0840/W/24/3344184 Land North West of Kenilworth, Uphill, Callington, Cornwall PL17 7PB**

- 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 Miss Laura Bradbear for a full award of costs against Cornwall Council.
  - The appeal was against the refusal of planning permission for PiP (stage 1) for one infill dwelling on previously developed land (garden).
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### **Decision**

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

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. A full award of costs is sought by the applicant on the basis that the Council acted unreasonably and caused the applicant unnecessary or wasted expense in the appeal process primarily through its reliance on policies set out in the Linkinhorne Neighbourhood Development Plan (LNDP) and disregard for relevant caselaw.
4. Given that the timeframe to challenge the LNDP has expired, it forms part of the development plan and regard is to be had to the policies therein. Moreover, section 38(5) of the Planning and Compulsory Purchase Act 2004 (the Act), is clear that where there is conflict between a policy contained in a development plan for an area and another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan. In this case, while the Council determined that the proposal would not give rise to conflict with Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030, adopted November 2016 (CLP), it correctly applied Policies GP1, GP2 and H1 of the LNDP given the date it was made postdated the adoption of the CLP. I therefore cannot conclude that the Council's behaviour in that regard was unreasonable.
5. The Council does not provide detailed commentary in relation to a recent appeal decision at Zoar Cottage, Passage Hill, Mylor Bridge<sup>1</sup>. The Inspector in that case found that development could be allowed where it conflicted with a

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<sup>1</sup> Appeal Ref: APP/D0840/W/23/3332955

neighbourhood plan but accorded with the CLP. Nonetheless, the Council indicates that it had regard to section 38(5) of the Act, and therefore in the case of the appeal proposal, policies contained in the LNDP were considered to take precedence. Consequently, the Council has not behaved unreasonably by persisting in objections to a scheme which an Inspector has previously indicated to be acceptable.

6. The Council also assessed the proposal against the CLP policies it considered to be relevant, and Policies T1 and C1 of the Council's Climate Emergency Development Plan Document, adopted February 2023. It clearly set out, within both the officer report and the appeal statement, justification for the reason for refusal in terms of accessibility and related these concerns to the relevant development plan policies. While I have reached a different conclusion, this is a matter of planning judgement. The Council has also explained that the proposal for the conversion of the adjoining barn to residential use was assessed in a different policy context. Accordingly, the Council has therefore not acted unreasonably in this regard.
7. While the Council appear to have spent some time ascertaining the meaning of Policy GP2 of the LNDP, it ultimately made its decision in accordance with the wording of the policy. Furthermore, while the Council did not specifically refer in detail to the caselaw highlighted by the applicant, I have set out in my Appeal Decision that the situation is not comparable to that in *Chichester District Council V SSHCLG* [2018] EWHC 2386 (Admin). As such, I find that the Council did not act contrary to, or fail to follow, well-established case law.
8. While the Council did not initially acknowledge that the land comprises previously developed land, given that this was only one matter in dispute, this would not have avoided the appeal, or the expenses incurred as a result.

### **Conclusion**

9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*E Worley*

INSPECTOR