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## Costs Decision

Site visit made on 28 January 2025

by **Jessica Graham BA (Hons) PgDipL**

an Inspector appointed by the Secretary of State

Decision date: 27 May 2025

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**Costs application in relation to Appeal A Ref: APP/D0840/C/23/3323634 (“The Enforcement Appeal”) and Appeal B Ref: APP/D0840/W/23/3319523 (“The Planning Appeal”)**

**Land known as Hilltop, St Mewan, St Austell, Cornwall PL26 7DT**

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Cornwall Council for a full award of costs against Mr Simon Welch.
- The appeals were against an enforcement notice alleging the material change of the use of the land to residential (the Enforcement Appeal), and the Council’s refusal to grant planning permission for that development (the Planning Appeal).

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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. The Council contends that a number of the arguments advanced on behalf of the Appellant were so groundless as to be unreasonable. These were the claims that the development of the Appeal Site would comply with Development Plan policies in respect of the rounding-off or infill of a settlement; in being previously developed land; and in meeting the criteria of Policy AL1 of the Climate Emergency DPD.
4. I share the Council’s view that these arguments were largely without merit. I also note that the Appellant appears to have misunderstood the relevance of Policy 2 of the St Mewan Neighbourhood Plan. However, it is important to bear in mind that non-compliance with the Development Plan is never the end of the matter: it is always necessary to take into account any other material considerations. This point informs the drafting of paragraph 53 of the PPG, which gives examples of behaviour which may give rise to a substantive award of costs against an Appellant, such as where an appeal (or ground of appeal) had no reasonable prospect of succeeding. It states that this may occur when the development is clearly not in accordance with the Development Plan, but goes on to add “...AND [my emphasis] no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.”

5. It was not the case, here, that the Appellant simply put forward a number of unconvincing reasons why the development should be regarded as complying with the policies of the Local Plan, and left it at that. Rather, in this case, the Appellant went on to advance a number of other material considerations that ought to be weighed in the planning balance. Some of these, such as the personal circumstances of the Appellants, were perfectly well founded and supported by evidence. I would include among their number the acknowledged Housing Crisis in Cornwall, because notwithstanding the Council's point that its paper entitled "Securing Homes for All: A Plan to address Cornwall's Housing Crisis" does not introduce any new planning policies or alter any existing ones, it is not unreasonable to argue that as the need for housing increases, so should the weight that attaches to development which would help to meet that need.
6. Others, such as the assertion that the Appeal Site is a sustainable location simply by reason of the cited distances from the nearest settlements, bus stop and trunk road, were not well-founded. I would include among their number the contention that because the Local Plan does not contain a policy which deals specifically with mobile homes, paragraph 11(d) of the NPPF is triggered. Proposals for residential accommodation – whether in mobile homes or bricks and mortar housing – need to be assessed against the various Local Plan policies which deal with residential accommodation: to claim there are "no relevant development plan policies" is simply wrong. I would also include the assertion that because the Inspector who determined an appeal concerning residential development near Wadebridge<sup>1</sup> treated Local Plan Policies 3 and 7 as being out of date for the purposes of NPPF paragraph 11(d), the same should apply here. The Inspector who determined that appeal was careful to make it very clear that those policies were only "out-of-date for this particular proposal".
7. In summary, I can understand the Council's frustration at having to spend time addressing a number of points that had little merit. However, I do not consider this an appeal that can rightly be described, as at paragraph 53 of the PPG, as having "no reasonable prospect of succeeding". A number of relevant material considerations were advanced which may potentially have overcome the extent of the conflict with the Development Plan, had sufficient weight been attached to them: the question of weight being a matter for the judgment of the decision-maker.
8. I therefore conclude that in the circumstances of this particular case, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*Jessica Graham*

INSPECTOR

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<sup>1</sup> Ref APP/D0840/W/21/3285995