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## Costs Decisions

Site visit made on 9 April 2019

**by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip**

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

**Decision date: 09 May 2019**

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### **Costs applications in relation to Appeal Ref: APP/M9496/C/18/3208720 Land at Cartledge Flat/Rushy Flat Dike, North of Hollingdale Plantation, Strines, Bradford, South Yorkshire**

- The applications are made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The applications are made by Sir Philip Vyvian Naylor-Leyland for a full award (Costs A) and a partial award (Costs B) of costs against the Peak District National Park Authority.
  - The appeal was against an enforcement notice alleging engineering operations consisting of the laying of crushed stone on the land to form a track.
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### **Decisions**

#### **Costs A**

1. The application for a full award of costs is refused.

#### **Costs B**

2. The application for a partial award of costs is refused.

### **Reasons**

#### *Background*

3. 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.
4. The applicant has made two applications for costs against the local planning authority.

#### *Reasons - Costs A*

5. Costs A seeks a full award of costs on the grounds that the enforcement notice is a nullity and should be quashed. I have set out in my Decision the reasons why I do not consider the notice to be a nullity or otherwise invalid. Consequently, Costs A fails as the application was made on this basis only.

#### *Reasons - Costs B*

6. Costs B seeks a partial award of costs on the grounds that the local planning authority made a substantial change to its case and requested an alteration to the description of the breach of planning control in the notice. It is claimed that this was unreasonable both in substance and timing, whatever the outcome of the appeal.

7. In its response to the appellant's grounds of appeal, the local planning authority invited a correction or variation of the allegation to delete the words "to form a track". The appellant considered this would result in a fundamental change to the nature of the alleged breach causing injustice. I found in my Decision that any such correction or variation was unnecessary.
8. I do not consider the suggestion amounted to a substantial change of case. It was clearly made with a view to focus the areas of dispute on the other grounds of appeal. I do not consider this amounts to unreasonable behaviour. Moreover, there is no evidence that this caused the appellant unnecessary or wasted expense in the appeal process.

*Conclusion*

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in respect of either application.

*Debbie Moore*

Inspector