

Costs Decision

Site visit made on 17 September 2019

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 10th October 2019

**Costs application in relation to Appeal Ref: APP/D0840/W/19/3221963
Land south east of Wringsdown, Yeolmbridge, Launceston,
Cornwall PL15 8NH**

- 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 Cornwall Council for a full award of costs against Mr Frank McGough.
 - The appeal was against the refusal of planning permission for the creation of an access off the highway.
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Decision

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

Reasons

2. The Planning Practice Guidance ('the 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 has referred in particular to advice in the PPG that one of the examples of an appellant being at risk of an award of costs in an appeal if the development is the same or very similar to that dismissed in a previous appeal on the same or substantially the same site.
4. Ostensibly there is a cogent argument for the costs application to be allowed in the light of this guidance. However, the previous appeal was decided four years ago and followed a decision by the Council to refuse an application that also included a dwelling. And according to the appellant's evidence, the decision was made despite officers' support for the creation of an access similar to that now proposed.
5. Without access to the documentation in that case I cannot be sure that in those circumstances the appellant was able to be fully informed and prepared as regards the form and detail of the evidence to be submitted to the previous Inspector. More importantly, I also give weight to a number of factors. These include that the context of the applications are different; that the Cornish Hedge is argued to be in a poorer state than previously (albeit this is disputed by the Council); that the current appeal application places an emphasis on an appropriate replacement Cornish Hedge; that an ecology report has been submitted as fresh evidence; that there have been changes

in national and local planning policies since the appeal, and that (in the appellant's view) the Council has failed to fully and fairly assess the appeal application on its individual merits and engage with the applicant and his adviser.

6. Overall, I consider that the combination of these, and other, matters has some merit and thereby materially reduced the strength of the Council's argument for an award of costs.
7. I therefore find, on balance, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Martin Andrews

INSPECTOR