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## Costs Decision

Hearing Held on 13 June 2017

Site visit made on 13 June 2017

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

**Decision date:**

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### **Costs application in relation to Appeal Ref: APP/N2345/W/16/3160927 Land off Pudding Pie Nook Lane, Preston, Lancashire PR3 2JL**

- 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 Falgoza SA for a full award of costs against Preston City Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for residential development of up to 24 no. dwellings.
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### **Decision**

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

### **Preliminary Matter**

2. An application for a full award of costs was made by the applicant in writing in advance of the Hearing. The Council also responded to that application in writing prior to the Hearing. At the Hearing, both parties indicated that they did not wish to add anything further to either the written application or the written response. As both cases are already a matter of record, I see no reason to rehearse the cases of the parties in this Decision.

### **Reasons**

3. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
4. The Guidance provides examples of what could constitute unreasonable behaviour on the part of the Council<sup>1</sup>. The applicant asserts that the Council have, in this instance, prevented or delayed development which clearly should be permitted having regard to its accordance with the development plan, national policy and any other material considerations. It is also the case of the applicant that the Council has provided vague, generalised or inaccurate assertions about the proposal's impact which are unsupportive by any objective analysis and that they have acted contrary to well-established case law.

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<sup>1</sup> The Guidance: Paragraph 49 Reference ID: 16-049-20140306

5. The original planning application was recommended for approval by the Council's planning officers, but was subsequently refused following consideration by the Council's Planning Committee. Whilst I note the decision was contrary to the professional views of the Council's officers as well as those of relevant statutory and non-statutory bodies, the Council is not bound to follow the advice of its officers, provided it can demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate its reasons if it is to take an alternative decision.
6. It will be seen from the appeal decision that I agree with the Council that there were sufficient and tangible grounds for refusing planning permission in respect of the suitability of the location of the appeal site and the conflict of the proposal with the development plan. In my view, the Council has clearly identified and substantiated material adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal. I disagree with the applicant that the Council's reasons were vague or generalised assertions.
7. The applicant claims the Council failed to follow well-established case law in respect of the issue of five year housing land supply. However, as can be seen from the appeal decision, I agree with the Council that they are able to demonstrate a five year supply. Moreover, it is clear from the Council's written and oral evidence that the test of Paragraph 14 of the National Planning Policy Framework was carried out at the time of the application when it could not demonstrate a five year supply. As a result, I see no evidence that the Council has behaved unreasonably.

### **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

*Jason Whitfield*

**INSPECTOR**