



## Costs Decision

Inquiry Held on 22-26 June and 1-2 July 2020

Site visit made on 30 June 2020

**by Mike Hayden BSc DipTP MRTPI**

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

**Decision date: 11<sup>th</sup> August 2020**

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### **Costs application in relation to Appeal Ref: APP/D2320/W/20/3247136 Land at Pear Tree Lane, Euxton, Chorley**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Gladman Developments Limited for a full award of costs against Chorley Borough Council.
  - The inquiry was in connection with an appeal against the refusal of planning permission for the erection of up to 180 dwellings including 30% affordable housing, with public open space, structural planting and landscaping, surface water flood mitigation and attenuation and vehicular access points from School Lane.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) states that costs may be awarded against a party at appeal where that party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Claims can be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal.
3. The Appellant's claim is substantive. In summary, it asserts that the Council behaved unreasonably in pursuing a case at appeal, which relied on a housing requirement derived from a redistribution of the standard method local housing need as the basis for calculating the 5 year housing land supply (5YHLS), and a misreading and misapplication of the National Planning Policy Framework (the Framework) and the guidance in the PPG.
4. Notwithstanding my Decision on the appeal, the Council has provided evidence to substantiate the basis for its refusal of the proposal. It will be clear from my appeal Decision that I do not find the Council's case to be without merit. Whilst I have concluded that the standard method LHN figure for Chorley should provide the basis for calculating its 5YHLS in the appeal, I do not consider it was unreasonable for the Council to make the case for a requirement derived from a redistribution of housing need across Central Lancashire, given the courts have held this is not unlawful for decision-making purposes. Even though I disagree with the Council's interpretation and application of the PPG to support its approach, the Council has adequately explained the reasons for its reading of the guidance.

5. On the matter of timing, the Council argues that the application should be refused because it was not made in a timely manner in accordance with the PPG and the Inspector's direction. However, the Appellant submitted the costs application before the close of the inquiry in accordance with the guidance in the PPG<sup>1</sup>. Whilst the PPG also requests that, as a matter of good practice, costs applications should be made in writing before the hearing or inquiry, it acknowledges there may be circumstances where this is not possible. My directions following the first case management conference (CMC) reflected this guidance.
6. Although the appellant indicated at the CMC and at the opening of the inquiry that it did not intend to make a costs application, it has explained the reasons for doing so having heard the Council's evidence at the inquiry. In part this was because, in the Appellant's view, the Council persisted in pursuing arguments at the inquiry, which it considered were not credible. I have dealt with the substance of that above. But the PPG allows for costs applications to be made before the close of the inquiry, where they relate to behaviour at the inquiry<sup>2</sup>. Therefore, I am satisfied that the costs application was made in accordance with the deadlines and guidance in the PPG.
7. Nevertheless, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*M Hayden*

INSPECTOR

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<sup>1</sup> PPG Paragraph: 035 Reference ID: 16-035-20161210

<sup>2</sup> PPG Paragraph: 035 Reference ID: 16-035-20161210