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## Costs Decision

Site visit made on 23 November 2021

**by Mark Caine BSc (Hons) MTPL MRTPI LSRA**

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

**Decision date: 13 January 2022**

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### **Costs application in relation to Appeal Ref: APP/U2370/W/21/3277985 Craiglunds, Hillylaid Road, Thornton Cleveleys FY5 4EB**

- 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 James Carter Homes for a full award of costs against Wyre Borough Council.
  - The appeal was against the refusal of planning permission for a development proposed that is described as 'Demolition of existing single dwelling house and erection of apartment scheme comprising of 29 one bedroom and 4 two bedroom apartments for the over 55's. Ancillary accommodation to include Social room, internal scooter store and garden store. Scheme to accommodate parking for 20 parking spaces and 2 accessible parking spaces on site'.
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### **Decision**

1. The application for an award of costs is allowed in part in the terms set out below.

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and that the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Planning Committee decided to refuse the application contrary to advice of their professional officers who had produced a written report analysing the effects of the proposal on a number of matters including the character and appearance of the area and highway safety. Authorities are not bound to accept the recommendations of their officers, but the PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal, or if they rely on vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The Council reached a different conclusion to the appeal decision in respect of the main issues of character and appearance and highway safety, and the recommendation of its officers. However, the consideration of planning applications and appeals involve matters of judgement which at times are finely balanced.
5. The effect of a proposed development on the character and appearance of an area is a more subjective matter, often determined by an exercise of judgement in the particular circumstances of a case. I am satisfied that the

Council has adequately addressed this in its decision notice and response to the appeal.

6. Nonetheless, a detailed consultation response from Lancashire County Council, the highway authority, concluded that the degree of on-site parking proposed was acceptable given Wyre Local Plan's maximum car parking standards, the nearby access to public transport and compliance with advice in the National Planning Policy Framework. It also referred to guidance in Manual for Streets, TRICS data and its Personal Injury Accident database in reaching its finding that there would be no significant impact on highway safety, capacity or amenity in the immediate vicinity of the site. Yet little evidence was put forward by the Council to support this reason for refusal and demonstrate how their assumption that the level of proposed parking provision would have an unacceptable impact on highway safety grounds.
7. As such the Council inadequately substantiated its first reason for refusal and the applicant's costs in dealing with this part of the appeal were therefore unnecessarily incurred. For this reason, I conclude that the costs application should succeed in part, related only to the costs of challenging the decision in relation to highway safety. The application for an award of costs is therefore allowed in the terms set out below.

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wyre Borough Council shall pay to James Carter Homes, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the issue concerning the effect on highway safety.
9. The applicant is now invited to submit to, Wyre Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Mark Caine*

INSPECTOR