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## Costs Decision

Site visit made on 12 July 2017

**by Michael Moffoot DipTP MRTPI DipMgt MCMI**

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

**Decision date: 28 July 2017**

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### **Costs application in relation to Appeal Ref: APP/M2325/W/17/3172860 4A Cyprus Avenue, Lytham St Annes FY8 1DY**

- 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 Mr Gordon Rowatt for a full award of costs against Fylde Borough Council.
  - The appeal was against the refusal to grant approval for 'prior notification for change of use from storage or distribution buildings (Class B8) and any land within its curtilage to dwellinghouse (Class C3) under Schedule 2, Part 3, Class P of the General Permitted Development Order 2015'.
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### **Decision**

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

### **Reasons**

2. The *Planning Practice Guidance* (PPG) advises that, irrespective of the outcome of the appeal, 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 costs claim is made on two grounds. On the first ground, the applicant contends that the Council did not pay regard to the submitted information or planning history when considering the use of the building the subject of the appeal.
  4. The officer's Delegated Report sets out in some detail the planning history of the site and includes reference to the supporting statement, photographs and the statutory declaration which accompanied the planning application. The report goes on to conclude that the building has no established use as a separate planning unit.
  5. In my view, the main consideration in the appeal is not the planning status of the building but rather whether the proposal would benefit from a permitted development right. In its assessment of the proposal it is clear that the Council paid due regard to the site's planning history and gave the supporting information careful consideration before concluding that the proposal did not enjoy any permitted development right and thus refused the application. The Council has not therefore acted unreasonably in this respect.
  6. On the second ground, the applicant contends that the Council misdirected itself in introducing amenity matters that are not within the scope of the legislation. However, as I have concluded that the development falls outside the permitted
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development right there is no need to make a determination on the amenity matters, and accordingly it is not necessary to consider this ground of the costs claim.

7. I therefore conclude that unreasonable behaviour resulting in unnecessary expense for the appellant, as described in the PPG, has not been demonstrated.

*Michael Moffoot*

Inspector