
Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 12/06/18

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 11/09/2018

Costs Decision

Site visit made on 12/06/18

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 11/09/2018

Costs application in relation to Appeal Ref: APP/T6850/A/18/3198930

Site address: Land south of Broncafnt Lane, Llanfair Caereinion

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by NL and KM Griffiths for a full award of costs against Powys County Council.
 - The appeal was against the refusal of planning permission for outline application for the erection of up to 4 dwellings and associated infrastructure including installation of sewage treatment plant, with some matters reserved.
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Decision

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

Reasons

2. The appellants' costs application is based on procedural and substantive grounds. The procedural claim asserts a lack of co-operation by the Council in refusing to provide information on the number of houses it would be prepared to support given its pre-application agreement for a trade-off. The second claim relates to a refusal to co-operate in settling agreed facts. The appellants contend that the Council had agreed the trade-off before the application was made but the Council would not co-operate in settling the alleged agreed position in terms of house numbers in relation to the trade-off. However, the appellants' assert that the Council changed its mind over the agreed position and then reverted back to support the trade-off after refusing permission.
 3. The substantive grounds relate to the Council's failure to produce evidence to support its reason for refusal, failing to determine the application in a consistent manner to other similar cases and refusing to offer pre-application services and to provide reasonably requested information.
 4. In relation to the procedural grounds of the cost application the Council was not unreasonable in indicating its reservations about the development since it was a site located outside the former Unitary Development Plan (UDP) and the current Local Development Plan (LDP). It is not obliged in those circumstances to indicate that the development was acceptable in principle let alone indicate house numbers that would be acceptable. There may have been some agreement to the trade-off position but
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that does not bind the Council to an agreed position. The Council can take a different decision and decided to do so in this case.

5. In relation to the substantive grounds, the Council's statement set out its concerns in the statement of case that any prior agreement that existed had not overcome the fundamental issues relating to the development. The recent adoption of the LDP and the lack of a mechanism to relinquish the planning permission of the children nursery meant that the trade-off could only be given very limited weight and would not overcome the substantial harm to highway safety, the principle of the development and the drainage concerns.
6. The Council was not unreasonable in refusing the planning application and had not delayed a development which was in any event not in accordance with the development plan and national planning policies. I concurred with the Council's evidence on highway and drainage matters and the evidence had substance to form a respectable basis for the stance taken on the appeal. In my decision I also refer to the referral of other developments in the area but was not certain that they were similar to the circumstances of the appeal development. The application/appeal was considered on its individual merits.
7. The appellants accept that the Council provided pre-application advice. At the time when the Council refused planning permission the UDP was the development plan and there was a recognised deficit in the 5-year housing land supply. The Council refused permission on reasonable planning grounds which as indicated had substance. During the course of the appeal the LDP was adopted and the submissions made in respect of this material change were taken into account in the appeal decision. The Council had not acted unreasonably in this respect. I note the concern that the advice about the trade-off had seemingly changed, but the final decision of the Council was not fettered by that advice and had taken the decision to refuse permission in the light of all other material considerations. I also note the concern over the costs of submitting a second application for 3 dwellings. However, I am not dealing with an appeal or cost application in respect of that development only in relation to this appeal.
8. In both procedural and substantive grounds the Council's position was reasonable and the appellants have not incurred wasted expenditure. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex at Section 12 of the Development Management Manual, has not been demonstrated. A full or partial award of costs is therefore not justified in this case.

Iwan Lloyd

INSPECTOR