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## Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 12/03/19

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 28.03.2019

## Costs Decision

Site visit made on 12/03/19

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 28.03.2019

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**Costs application in relation to Appeal Ref: APP/T6850/A/18/3218043**

**Site address: Bryn Afal, Tregynon, Newtown, SY16 3EP**

**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 Mr Malcolm Brown for a full award of costs against Powys County Council.
  - The appeal was against the refusal of planning permission for one affordable 2 bedroom dwelling on land adjacent Bryn Afal and associated works including a footway to Oliver's Lane.
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## Decision

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

## Reasons

2. Welsh Government (WG) guidance relating to an award of costs, in the form of the WG Development Management Manual (DMM) and the associated Section 12 Annex: *Award of Costs* (May 2017) (Annex 12) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for an award of costs to incur unnecessary or wasted expense in the appeals process.
  3. The application for an award of costs refers to the fact that the minutes of the Powys County Council Planning Committee referred to a resolution to grant planning permission for the development subject of the application. Nevertheless, the LPA issued a Notice of Decision outlining its refusal of planning permission and written evidence submitted as part of the appeal confirms that this confusion arose from an administrative error in drafting the minutes. Indeed, such evidence clarifies that the Committee voted unanimously to refuse planning permission in accordance with the recommendation of its professional officer. I have no reason to doubt the LPA's evidence on this matter and therefore find that unreasonable behaviour leading to unnecessary or wasted expense has not been demonstrated in this respect.
  4. The applicant also considers that the need to address drainage matters was unreasonable in light of such issues being addressed under previous proposals. However, given that the development is not identical to the earlier scheme, and bearing in mind the fact that each case should be treated on its own particular merits, I do not consider that an award of costs is justified on such grounds. In any event, if the information was readily available and consistent with previous proposals, it would
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be reasonable to assume that the additional costs associated with such a request would be negligible.

5. The appellant contends that the officers dealing with the planning application deliberately concealed the fact that a Section 106 agreement had been submitted from the Members of the Committee. However, as this has not been used as a reason for refusal, it is unclear how the applicant considers that this resulted in unnecessary expense in the appeals process. I recognise the appellant's frustration with various other matters in respect of the way in which the application was processed, including reference to policies which are not considered to be relevant, the misquoting of a previous appeal decision, discrepancies between hard copy and electronic documents and the reference to a fence that does not form part of the proposal. However, whilst I have not had sight of any formal response from the Council in respect of such matters, I have not seen anything to persuade me that such matters were determinative to the Council's overall decision to refuse planning permission. Costs on such grounds are not therefore warranted.
6. Based on the foregoing, I conclude that unreasonable behaviour that caused unnecessary or wasted expense in the appeals process has not been satisfactorily demonstrated. Neither a full or partial award of costs is therefore justified and the application should be refused.

*Richard E. Jenkins*

INSPECTOR