



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 02/03/20

gan Richard E. Jenkins BA (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 16.04.2020

Costs Decision

Site visit made on 02/03/20

by Richard E. Jenkins BA (Hons) MSc
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 16.04.2020

Costs application in relation to Appeal Ref: APP/T6850/A/19/3241530

**Site address: Upper Gwestydd, Upper Gwestydd Lane, Cefn Mawr, Newtown,
SY16 3LA**

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, 322 and Schedule 6.
 - The application is made by Mr Gareth Woosnam of WG and DE Woosnam for an award of costs against Powys County Council.
 - The appeal was against the refusal of planning permission for the proposed erection of a free range poultry unit (egg production), erection of feed bins, creation of vehicular access and all other associated works (resubmission within 12 months).
-

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 appeal process.
 3. In this case, the applicant contends that the Council failed to have due regard to the fact that the development would represent a form of farm diversification which is generally supported by national policy. It is also contended that the Council's concerns in respect of highway safety were unwarranted and that such impacts would be negligible given the proposed mitigation measures and the former dairy operations at the appeal site. Nevertheless, such matters have been addressed in full as part of the Appeal Decision and, having regard to the findings of that Decision, I do not consider such substantive arguments to justify an award of costs.
 4. It is clear from the available evidence that the applicant has been in negotiations with officers of the Council in an attempt to find an acceptable scheme. The details of those negotiations appear to indicate that a variety of options have been considered over a long period of time, including those discussions that took place in respect of a previous
-

application¹. However, whilst such negotiations have resulted in a significant period of time elapsing without a positive recommendation, I have not seen anything to indicate that the Council's behaviour during the processing of planning application Ref: P/2018/0470 has been unreasonable. Indeed, the evidence indicates that the highway safety concerns were a constant theme throughout the negotiations and, despite indicating that it would consider the historic dairy use, I consider that the Council was within its rights to conclude upon receipt of all of the necessary information that such an operation did not weigh heavily in the planning balance.

5. Based on the foregoing analysis, and having considered all matters raised, I conclude that unreasonable behaviour has not been satisfactorily demonstrated and that an award of costs is not justified in this instance. The application for an award of costs should therefore be refused.

Richard E. Jenkins

INSPECTOR

¹ Planning Application Ref: P/2016/0881