



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 30/3/22

gan Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 18.08.2022

Costs Decision

Site visit made on 30/3/22

by Declan K Beggan BSc (Hons) MSc
DipTP DipMan MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 18.08.2022

Costs application in relation to Appeal Ref: CAS-01539-Y3C6H7

Site address: Garn Rhos, Maesceiro, Bow Street, SY24 5BG

The Welsh Ministers have transferred the authority to decide this application 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 Daniel Jones of Towyn Marine Properties Ltd for a full award of costs against Gwynedd Council.
 - The appeal was against the refusal of planning permission for 'Erection of 7 dwellings (2 blocks of semi-detached and one block 3 terraced dwellings)'.
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Decision

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

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process. The Annex states that local planning authorities are at risk of an award of costs being made against them if they behave unreasonably with respect to procedural matters or the substance of the matter under appeal. The thrust of the costs application is twofold based on procedural and substantive grounds.
3. In terms of the procedural ground, in summary it is argued that the Council failed to engage with the Applicant during the course of the Council's consideration of the scheme to explain their concerns regarding the issue of site viability as related to affordable housing contributions, and thereby assist with resolving the matter without recourse to an appeal.
4. Prior to making the final decision on the proposal, I note the Council engaged over an extended period in multiple e mail correspondence with the Applicant, albeit that was not to the Applicants' satisfaction. Irrespective of the degree of communication during the

course of the Council's consideration of the application, once the application was submitted the proposal had to be assessed on its own merits, and to that end the Council highlighted and elaborated on several occasions its stance regarding build costs and viability. Whilst the Council could have been more forthright in regard to the stance it took, nonetheless, I do not consider its approach constitutes unreasonable behaviour.

5. In regard to the substantive matter, consideration of planning applications and appeals involves matters of judgment which are at times finely balanced. As discussed above, the primary issue in this appeal was whether or not the proposal would be viable in light of a requirement for affordable housing. Having considered the parties' respective views on the matter and in particular build costs associated with the scheme, ultimately for the reasons given in the main decision I was not persuaded that the Council's arguments for refusing the scheme were unreasonable.
6. Notwithstanding the views of the Applicant, the Council's reason for refusal was adequately reflected in the substance of the planning officer's report supported by additional comments in their appeal statement and this was confirmed in my main decision. Overall, I consider the Council provided adequate evidence and reasonable planning grounds to justify their stance. Ultimately these were matters of planning judgment/interpretation and balance, and this cannot be construed as unreasonable behaviour.

Overall Conclusions

7. Consequently, I do not consider the Council has acted unreasonably as set out in the Annex. An award of costs in this case is therefore not justified. The costs incurred by the Applicants in regard to the refusal reason arose out of the exercise of their right of appeal and were not wasted or unnecessary costs.

Formal Decision

8. The costs application is refused.

Declan K Beggan

Inspector