



Costs Decision

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

an Inspector appointed by the Welsh Ministers

Decision date: 08/09/2023

Costs application in relation to CAS-02591-Z9G0D9

Site address: Awel Y Bryn, Trigfa, Moelfre, LL72 8LL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr and Mrs D Adams for a full award of costs against the Isle of Anglesey County Council.
 - The appeal was in connection with a refusal to grant planning permission for a “Full application for alterations and extensions with Juliet balconies”.
 - A site visit was made by the Inspector on 25 July 2023.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions

2. The costs application was made in writing by Mr and Mrs Adams and relates to a full award on substantive grounds. The Council responded in writing to the cost application.

Reasons

3. 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. It explains that local planning authorities are not bound to adopt the professional advice of their officers. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. The Annex advises, if they fail to do so, costs may be awarded against them.
4. The thrust of the costs application is that the Council in refusing planning permission did not show reasonable planning grounds for taking a decision contrary to the advice of their own officers. The Council response largely relied on links to the various planning committee discussions as justification for the stance they took.
5. The Council’s reasons for refusing planning permission ran contrary to professional officer advice regarding the acceptability of the proposal as detailed in my decision letter. The Council’s planning committee was presented with a comprehensive series of reports

detailing the acceptability of the scheme in terms of any impacts relating to living conditions, character and appearance, and highway safety, with the last report to the planning committee specifically expanding upon these matters.

6. I consider that the Council's arguments relied to a large extent and were unduly influenced by a belief that the proposed development and the property may be used for purposes other than its lawful use. However, officers were quite categoric in their written and oral advice to the planning committee as to what type and nature of application was before them, the lawful use of the property, its relationship to its surroundings, the lack of a technical objection from the Council highway department, its compliance with the relevant policies of the Anglesey and Gwynedd Joint Local Development Plan, and compliance with the Council's car parking standards. Despite officer advice on multiple occasions, the planning committee proceeded to the grounds of refusal.
7. The Annexe states that local planning authorities are expected to show that they had reasonable planning grounds for taking a decision contrary to officer advice and that they are able to produce relevant evidence to support their decision, and if they fail to do so, costs may be awarded against the authority. Whilst I appreciate there may be a degree of planning judgment and balance when assessing a proposal, nonetheless, the Council's refusal arguments, as explained in my decision letter, were unconvincing and lacked substance or reasonable planning justification when examined against the facts i.e., the lawful use of the property, the proposal's relationship with its surroundings, and the level of car parking provision/highway impacts.
8. The Council's stance in refusing the proposed development was unreasonable on all refusal grounds and ran contrary to the advice in the Annexe. The Council's unreasonable behaviour has resulted in the applicants incurring unnecessary and wasted expense in pursuing this appeal process. An award of costs is justified in the terms set out below.

Costs Order

9. In exercise of the powers under sections 78, 322C and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Isle of Anglesey County Council shall pay to Mr and Mrs Adams, the full costs of the appeal proceedings described in the heading of this decision.
10. The applicants are now invited to submit to the Isle of Anglesey County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Declan K Beggan

INSPECTOR