



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: 26.04.2019

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: 26.04.2019

Costs application in relation to Appeal Ref: APP/T6850/A/18/3218342

Site address: Land at Cefn Llan, Llangammarch Wells

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 Parry of Butler Wall Homes for a full award of costs against Powys County Council.
 - The appeal was against the refusal of planning permission for reserved matters following outline approval P/2017/0823 for the erection of 25 dwellings, 7 garages, access road and all associated works.
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Decision

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

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. In this case, the Local Planning Authority (LPA) refused the application on the basis that the scale of the development proposed would result in the capacity of Llangammarch Wells being significantly exceeded, despite the fact that the scale of development had been considered and firmly established through the grant of outline planning permission in 2014 and again subsequently following an application under Section 73 of the Act¹. I note the contention that the LDP residential allocation at the site relates to 16No. residential dwellings. However, the members of the *Planning, Taxi, Licensing and Rights of Way Committee* were advised that such a figure should be treated indicatively and failed to adequately explain why it considered such a matter to outweigh the extant planning permission.
4. Notwithstanding such matters, the LPA provided no evidence to demonstrate why the provision of 16No. residential dwellings would be materially less harmful than the 25No. dwellings proposed in this case, despite the fact that the development would be

¹ Application Ref: P/2017/0823

broadly compliant with the density requirements advocated by the Council's own adopted Local Development Plan 2011- 2026 Written Statement (adopted 2018)(LDP).

5. I therefore find the LPA to have behaved unreasonably, as defined by Annex 12 of the WG's DMM. Given that such behaviour led to unnecessary expense through the appeals process, it follows that a full award of costs is justified. For these reasons, and having considered all matters raised, I conclude that the application for an award of costs should be allowed.

Costs Order

6. In exercise of the powers under section 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 Powys County Council shall pay to Mr Parry of Butler Wall Homes, the costs of the appeal proceedings described in the heading of this decision.
7. The applicant is now invited to submit to Powys 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, an application for a detailed assessment by the Senior Courts Costs Office should be considered.

Richard E. Jenkins

INSPECTOR