



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 29/08/19

gan Iwan Lloyd BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27.09.2019

Costs Decision

Site visit made on 29/08/19

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 27.09.2019

Costs application in relation to Appeal Ref: APP/T6850/Q/19/3231513

Site address: Pen-y-Cae, Greenfields Farm, Four Crosses, Llanymynech SY22 6RF

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, section 322C and Schedule 6.
 - The application is made by Philip Michael Pryce for a full award of costs against Powys County Council.
 - The appeal was against the refusal to discharge a planning obligation relating to the erection of a dwelling.
-

Decision

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

Reasons

2. The application for costs and the Council's response were made in writing. These documents are presented as the parties' submissions for and against costs and are fully considered.
 3. The Annex at Section 12 of the Development Management Manual Award of Costs, advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 4. The applicant asserts that the Council failed to determine the application within the statutory time limit and had not explained the delay in deciding the application or requested an extension of time. The applicant had written three times without a response, and the fourth email indicated that an appeal would be lodged. The Council refused the application following receipt of the latest communication. The applicant contends that the Council had failed to fully assess the reasons for the application, had not sought a meeting with the applicant and had not submitted a statement of case to address issues and questions raised by the applicant.
 5. The Council concedes that the application had not been determined within the statutory time limits but asserts that the outcome of the application would have been the same had it done so, and the applicant has therefore failed to demonstrate that he has incurred unnecessary or wasted expense in the appeal process. The Council also indicates that whilst it indicated that a statement of case would be provided after
-

consideration it chose to rely on the delegated report, which considered the reasons for the application.

6. One example of unreasonable behaviour in paragraph 3.10 of the Annex at Section 12 of the Development Management Manual is the procedural failure to determine the application within the statutory time limit where there was no substantive reason to justify delaying the determination of the application. Whilst this is regarded as unreasonable behaviour it has not directly caused the applicant to incur unnecessary or wasted expense in the appeal process since the application was refused and the appeal was unavoidable.
7. I was not persuaded by the applicant's case in this appeal, and the Council's case had sufficient substance from the information provided in the delegated report to indicate that it had properly considered the applicant's submissions.
8. In all, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex at Section 12 of the Development Management Manual, has not been demonstrated. A full or partial award of costs is therefore not justified in this case.

Iwan Lloyd

INSPECTOR