



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 19/11/19

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 04.12.2019

Costs Decision

Site visit made on 19/11/19

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 04.12.2019

Costs application in relation to Appeal Ref: APP/T6850/A/19/3235811

Site address: The Slangs, Cascob, Presteigne LD8 2NT

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 78, section 322C and Schedule 6.
- The application is made by Ms Ella Hammel for a full award of costs against Powys County Council.
- The appeal was against the refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 1995 for the erection of an agricultural barn.

Decision

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

Reasons

2. The Annex at Section 12 of the Development Management Manual, Award of Costs (the guidance) advises at paragraph 1.2 that "*Parties are expected to meet their own costs. An appellant or applicant is not awarded costs simply because their appeal or application succeeds and similarly, a local planning authority is not awarded their costs because their position or decision is upheld. An award of costs may only be made where one party has behaved unreasonably, and that unreasonable behaviour has led other parties to incur unnecessary or wasted expense.*" The guidance provides examples of circumstances which may lead to an award of costs against a Council. Awards may be either procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.
3. In summary, the appellant states that in this case the unreasonable actions of the Council have prevented development which should clearly be permitted, having regard to its accordance with Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO) and any other material considerations.
4. It was not, in my opinion, unreasonable for the Council to refuse the application given its concerns regarding landscape harm. Nevertheless, the key test is whether evidence is produced on appeal which provides a respectable basis for the authority's stance.

5. In my parallel appeal decision, I have not agreed with the Council's reason for resisting the application. However, they have set out reasons why they believe it to be unacceptable that have warranted careful consideration and analysis. I am also satisfied that the Council took into account all relevant considerations when judging the proposal.
6. In this respect, the correspondence and planning history provided by the parties shows that a fair amount of dialogue about the site has taken place. Indeed, the disputed issues have narrowed over time across the various applications, and, on balance, I consider that they have acted within the spirit of the legislation.
7. Therefore, it is not the case here that the appeal could have been avoided. I have found that the Council had reasonable concerns about the impact of the development which justified its decision. The appellant had to address those concerns and the evidence of third parties. Thus, I am satisfied that unreasonable behaviour has not been demonstrated in this regard.

Conclusion

8. Having considered the matters above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the guidance, has not been demonstrated, and therefore the application for an award of costs is refused.

Joanne Burston

INSPECTOR