



Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 13/09/11
Ymweliad â safle a wnaed ar 13/09/11

gan Gareth A. Rennie BSc (Hons) DipTP
Arolygydd a benodir gan Weinidogion Cymru
Dyddiad:

Costs Decision

Hearing held on 13/09/11
Site visit made on 13/09/11

by Gareth A. Rennie BSc (Hons) DipTP
an Inspector appointed by the Welsh Ministers
Date: 08/11/11

Costs application in relation to Appeal Ref: APP/H6955/A/11/2150207
Site address: Hafod Tileries, Hafod, Ruabon, Wrexham, LL14 6ET

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.
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- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wrexham County Borough Council for a full award of costs against Eco-Readymix.
 - The hearing was in connection with an appeal against the refusal planning permission for the change of use from stocking area associated with Dennis of Ruabon Tilery to a mortar and concrete batching plant.
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Decision

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

The submissions for Wrexham County Borough Council

2. Paragraph 1, annex 3 of circular 23/93 advises that where there has been a recent appeal in respect of the same or substantially similar case and where a Planning inspector has made it clear that the development should not be permitted, an appellant may be at risk of costs where it is found that circumstances have not changed materially since the previous decision.
3. Planning permission has been refused for this development on two occasions – once in November 2008 and again on December 2010. The appellant lodged an appeal against the former and this was dismissed on 1 April 2010.
4. There have been no changes in local policy since the previous appeal decision nor any substantial changes in national policy that would now warrant permission being granted. There have been no other changes in circumstance since the previous appeal was considered by the planning inspector and the scheme subject to the current appeal is substantially the same as the one subject to the previous decision.
5. For the reasons set out above, the Council contends that this is an unreasonable appeal.

The response by Eco-Readymix

6. The appellants' case had a real chance of success that planning permission would be granted. The Council's objections were based on a point of policy on previously developed land in an area for employment use.
7. Other material considerations were introduced by the appellants in particular concerning the search for alternative sites. The planning history had not been adequately explored and the sequence of events stated in the Design and Access Statement and the application had been encouraged by the local councillor.
8. A reasonable case was made based on the interpretation of PS1 and the scope of the UDP.

Reasons

9. I have considered this application for costs in the light of Circular 23/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
10. The proposed development had been the subject of a previous refusal and subsequent appeal against that decision and an enforcement notice. The inspector in that case found that there was not sufficient evidence in favour of the development.
11. I conclude that the appellants made an appeal based on a reasonable interpretation of policies within the UDP, in particular the criteria relating to the applicability of policy PS1 and the definition of employment land and employment areas. They did reiterate some of the previous arguments that had been dismissed at appeal. Nonetheless, the appellants considered that arguments about the thrust of the whole of the UDP had not been placed before the previous inspector and they considered that he was not fully informed of the planning history of the site and that additional information about the search for alternative sites had not been previously presented. My decision notwithstanding, I conclude that the appellants did not present a case that had no reasonable prospect of success.
12. Consequently I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has not been demonstrated and I therefore conclude that an award of costs is not justified.

Gareth A. Rennie

Inspector