



Penderfyniad Costau

Gwrandawriad a gynhaliwyd ar 23/03/11
Ymweliad safle a wnaed ar 23/03/11

**gan Emyr Jones BSc(Hons) CEng
MICE MCMi**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 07/04/11

Costs Decision

Hearing held on 23/03/11
Site visit made on 23/03/11

**by Emyr Jones BSc(Hons) CEng MICE
MCMi**

an Inspector appointed by the Welsh Ministers
Date: 07/04/11

Costs application in relation to Appeal Ref: APP/H6955/A/10/2142628
Site address: Grenville Terrace, Station Road, Ruabon, Wrexham LL14 6DL

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, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Sir Watkin Williams Wynn for a full award of costs against Wrexham County Borough Council.
 - The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the demolition of the existing terrace and redevelopment of the site for residential development (9 dwellings).
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Decision

1. I refuse the application for an award of costs.

The submissions for Sir Watkin Williams Wynn

2. The costs application was submitted in writing. The following additional points were made orally.
3. Notwithstanding the fact that a revised indicative layout was submitted, the original carried an officer recommendation for approval. Furthermore, there was also a delay in considering the revised indicative layout.

The response by Wrexham County Borough Council

4. The response was made in writing. The following additional points were made orally.
5. There was a degree of misunderstanding at the planning committee but this gave the opportunity to present a better scheme. The appellant could have requested that the unchanged scheme be considered but chose not to.

Reasons

6. Circular 23/93 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.

7. The application was received by the Council on 29th April 2010 and reported to the planning committee on 26th July 2010. The committee deferred consideration of the application to enable further information to be provided on the number of dwellings to be erected as well as access and parking arrangements, and because an illustrative layout was required. However, all this information was available to the local planning authority at the time through the DAS and accompanying indicative layout such that the stated reason for deferral does not stand up to scrutiny. The Council has not shown that it had specific and adequate reasons for not reaching a decision within the relevant time-limit and this clearly amounts to unreasonable behaviour. Nonetheless for an award to be made, it must also be demonstrated that the appellant has incurred or wasted expense unnecessarily.
8. Although the application was in outline, *The Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2008* requires such applications to be accompanied by a minimum level of information and decision makers can only determine them on the basis of that information. Against this background, it is not clear why the Chief Planning Officer could state that the details contained within the submitted indicative layout are not accepted as an appropriate layout for this site yet still recommend approval. In such circumstances, it would only be conjecture to suggest that the planning committee would have granted outline planning permission for 12 dwellings had it been told that the information sought was already to hand and been provided with it.
9. Furthermore, the proposal before me differs significantly from that before the committee in that the number of dwellings has been reduced from 12 to 9 with a different layout, presumably in response to the Chief Planning Officer's concerns. The reduction in numbers was agreed on the 4th October 2010 with the final revised details being submitted on the 5th November 2010, which was too late to obtain consultation responses and prepare a report in time for the 6th December 2010 committee meeting. The appeal was submitted soon thereafter on the 13th December 2010.
10. I cannot, therefore, be reasonably satisfied that the Council has prevented, inhibited or delayed development which could be reasonably permitted in the light of the development plan, so far as it is material to the application, and of any other material considerations. As a result, I am unable to conclude that the Council's unreasonable behaviour has caused the appellant to incur or waste expense unnecessarily because it should not have been necessary for the matter to be determined on appeal.
11. Any expense incurred by the appellant in producing evidence to resist the proposed extension of the Conservation Area would have related to the separate provisions of the *Planning (Listed Buildings and Conservation Areas) Act 1990* rather than the unreasonable behaviour identified above.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93 has not been demonstrated.

E Jones

Inspector