

**Town and Country Planning Act 1990
Section 78 Appeal**

**Appeal at Land opposite Madras Primary School, Overton
Road, Penley, Wrexham, LL13 0LQ.**

**COUNCIL'S RESPONSE TO APPELLANTS CLAIM FOR
COSTS**

PINS Ref: APP/H6955/A/18/3219039

LPA Ref: P/2018/0469

1 COUNCIL'S RESPONSE TO APPELLANTS' COST CLAIM

- 1.1 The Council do not consider that a costs claim is justified and will set out the response to the appellants costs claim, below.

2 DETAILS OF THE AWARD OF COSTS APPLICATION

- 2.1 In response to Part I. Costs as set out in the appellants submitted Planning Appeal Forms, I refer to criteria a) – e) in turn. In response to a):-

2.1.1 Community Council – Notification letter was printed and sent to the Community Council on 11th June 2018, advising that should they wish to make comments in relation to the application, they had 21 days from the date of the letter in which to do so. The consultation expiry date would have been 02nd July 2018. No response was received by the Community Council prior to this date. The final consultation expiry date was 14th July 2018, as specified on the press notice, published on 23rd June 2018. Therefore, the Community Council had a further 12 days after the 02nd July, in which to send their comments over to the Local Planning Authority, prior to a decision being issued. Unless an extension of time is agreed between both parties, the Council is under no obligation to wait for the comments of the Community Council after the consultation period has expired, prior to determination of the application.

2.1.2 Education Department, Ecology Officer, Tree Officer – The 3 no. consultees listed were consulted on the application on 14th June, advising a response was required 21 days from the date of consultation. The consultation expiry date would have been 05th July 2018. No response was received from the consultees prior to this date. The final consultation expiry date was 14th July 2018, as specified on the press notice, published on 23rd June 2018. Therefore, the 3 no. consultees had a further 9 days after the 05th July, in which to send their comments to the case officer, prior to a decision being issued. It is at the officers' discretion whether to wait for the comments of consultees after the consultation period has expired and is under no obligation to wait for comments, prior to determination of the application.

2.1.3 Local Member – Notified on 08th June 2018. The Local Member was asked by the Case Officer on 11th July whether he had any comments to make on the basis of a recommendation of refusal, to which he responded he had no comments to make.

- 2.2 In response to b):-

2.2.1 Consultation responses from internal consultees are not published externally on the Council's website. Furthermore, the agent did not request a copy of the Conservation Officer's response during the course of the application. It is at the officers' discretion whether to request additional information in relation to the application.

- 2.3 In response to c):-

2.3.1 The 8 week statutory timescale for the determination of the application was provided on the acknowledgement letter sent to the agent on 11th June, appended as Appendix 3.

2.4 In response to d):-

2.4.1 An officer report had been produced as part of a delegated decision made by officers.

2.4.2 The reference made by the agent in the application to Big Green Farm was given as a PINS reference, not the planning application reference number given by the Council at the time of validation of the application.

2.4.3 Furthermore, the appeal decision was not provided and neither were details of the documents submitted to accompany the planning application at the time of submission to the Council.

2.4.4 Each application is considered on its own merits, and a planning application for residential development granted on the site referred to above, does not set precedent to allow approval of the proposed residential development, subject of this appeal.

2.5 In response to e):-

2.5.1 Paragraph 9.7.14 of the Development Management Manual, as referred to by the appellant, refers to statutory consultees. The Council's Conservation Officer is not a statutory consultee.

2.5.2 Consultation responses from internal consultees are not published externally on the Council's website. Furthermore, the agent did not request a copy of the Conservation Officer's response during the course of the application. It is at the officers' discretion whether to request additional information in relation to the application.

2.5.3 Notwithstanding the above, the consultation response from the Conservation Officer was included in the officer report.

3.0 CONCLUSION

3.1 On the basis of the above, it is requested that the award of costs is refused as it is the Council's contention that they have not behaved unreasonably, resulting in the appellant incurring unnecessary or wasted expense in the appeal process.

Appendix 3

Acknowledgement letter from the Council to the agent dated 11/06/2018