

Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 20/05/15
Ymweliad â safle a wnaed ar 20/05/15

**gan Declan Beggan Bsc (Hons) DipTP
DipMan MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 03/07/15

Costs Decision

Hearing held on 20/05/15
Site visit made on 20/05/15

**by Declan Beggan Bsc (Hons) DipTP
DipMan MRTPI**

an Inspector appointed by the Welsh Ministers
Date: 03/07/15

Costs application in relation to Appeal Ref: APP/H6955/A/14/2229480
**Site address: Land Opposite St. Peters Close, Off New Llay Road, Rhosrobin,
Wrexham, LL11 4RB**

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 Castlemead Group Ltd for a full award of costs against Wrexham County Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for the erection of 117 dwellings, including provision of a roundabout to provide access, new internal access roads, public open space and retention of an existing footpath route.

Decision

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

The submissions for Castlemead Group Ltd

2. The costs application was submitted in writing and refers to the unreasonable behaviour of the Council that has caused unnecessary or wasted expense in pursuing an appeal where permission should have been granted. A full award is sought. At the hearing reference in particular was drawn to paragraph 7 of Annex 3 of the Circular 23/93¹.
3. The Applicant asserts that the Council had failed to show good reason why the application should be refused contrary to the sound and professional advice of officers and had relied instead on outdated development plan policies that were contrary to Planning Policy Wales Edition 7 July 2014, and advice contained within Technical Advice Note 1: Joint Housing Land Availability Studies. The Applicant maintains that concerns raised by the Inspector into the initial Examination of the Wrexham Local Development Plan (LDP) with regards to a significant shortfall in the supply of housing land have not been acted upon expeditiously in the formulation of the recommenced LDP in order to provide for an up to date planning framework for the area, thereby resulting in the application being refused through no fault of the applicant. In

¹ Circular 23/93 Award of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings

addition, the Council Planning Committee acted unreasonably as they should have assessed the proposal with the benefit of a site visit prior to making their decision.

The response by Wrexham County Borough Council

4. The response was made orally at the hearing. The Council referred to the fact that the Planning Committee are not bound by an officer recommendation and Members are entitled to give more weight to extant planning policies of the UDP. It was contended recent appeal decisions have taken a similar stance as regards applying the UDP green barrier policy and that national planning policy in this regard hasn't fundamentally changed, notwithstanding that the UDP as a whole is now time expired. It was explained the Planning Committee makes decisions on an individual basis and has recently permitted development in the green barrier; however in this instance the existing policy was upheld. The Council argue any concerns over housing strategy raised by the Inspector into the previously withdrawn LDP should be addressed in the recommenced LDP and cannot be resolved through individual applications. It was stated that any reference as to what the outcome of the decision would have been had the Planning Committee Members visited the site is speculation, and ultimately Members are not obliged to visit a site but instead rely on officers to articulate the site environment. The Council asserted that it had not acted unreasonably and had not caused the Applicant to incur wasted expense.

Reasons

5. 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.
6. Consideration of planning applications and appeals involves matters of judgement which at times are finely balanced. Paragraph 9 of Annex 3 to Circular 23/93 makes it clear that Local Planning Authorities are not bound to adopt the professional advice of their officers. In this case, the decision was made in the light of local concerns and Members concerns regarding development outside defined settlement limits and within a green barrier. The Council considered the Applicant had not put forward any compelling reasons to make an exception to the adopted UDP and that the lack of a five year housing land supply was not considered to be a valid reason to grant planning permission.
7. I consider there were sound planning reasons for the Council's case founded on an extant development plan policy background, and national planning policy in relation to development outside settlement limits and within a green barrier. The Council's consideration of the sensitivity of the site as regards to its designation within the adopted UDP would have been weighed against the Applicant's arguments for permitting the development. The Council's stance was supported by evidence in the form of a statement that was elaborated upon during the hearing. Consequently there was no unreasonable behaviour in regards to the outcome of the Council's decision. Nor was it unreasonable that Members of the planning committee did not visit the site prior to making their decision, as it was perfectly reasonable for them to rely on officers' articulation of the issues and the environment in which the site was located, rather than visit the site.

8. I therefore consider that the Council has not behaved unreasonably having regard to the advice contained within paragraph 7 of Annex 3 of Circular 23/93. An award of costs is not justified.

Formal Decision

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

Declan Beggan

INSPECTOR