

Penderfyniad ar gostau

Gwrandawriad a gynhaliwyd ar 30/06/15
Ymweliad â safle a wnaed ar 30/06/15

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

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 05/08/15

Costs Decision

Hearing held on 30/06/15
Site visit made on 30/06/15

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

an Inspector appointed by the Welsh Ministers
Date: 05/08/15

Costs application in relation to Appeal Ref: APP/H6955/A/15/3006442
Site address: High Street, Coedpoeth, LL11 3UE

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 Blakemore Property 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 change of use from vacant bakery (Use Class B1) to convenience store (Use Class A1), including part demolition, external alterations, parking, amended access, pavement widening and other associated works.

Decision

1. I allow the application for an award of costs in the terms set out below.

The submissions for Blakemore Property Limited

2. The costs application was submitted verbally and refers in particular to paragraph 8 of Annex 3 of the Circular 23/93¹ which relates to unreasonable behaviour by the Council in dealing with a planning application. The Applicant asserts, despite the parking and servicing arranging for the site having been found acceptable by the Council's highway engineers, the Council had failed to show good reason why the application should be refused, and have not produced any substantive evidence to show why the development cannot be permitted. It is argued neither of the reasons for refusal has been supported by substantive evidence.

The response by Wrexham County Borough Council

3. The response was made orally at the hearing. The Council asserted that it had not acted unreasonably in its determination of the application. The Council referred to the fact that the Development Control Committee are not bound by an officer recommendation, and that Members are entitled to give more weight to real concerns to a reduced level of parking provision especially when that parking is below the

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

anticipated demand indicated by the submitted TRICS (Trip Rate Information Computer System) data.

Reasons

4. Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who have behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. Consideration of planning applications and appeals involves matters of judgement which are at times 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; however, they are expected to show that they had reasonable planning grounds for taking a decision contrary to that advice. They are also expected to provide relevant evidence to support their decision in all respects.
6. In this case the Council's first refusal reason related to a lack of sufficient parking on the site to the detriment of highway safety. The Council's parking standards are a maximum and therefore allow for a degree of flexibility in their application, subject to local conditions. According to the Applicant's TRICS data the proposed development would not have provided the maximum required numbers of parking spaces as anticipated. There is a degree of interpretation in the assessment of the level of parking that would be acceptable, and in the application of the Council's adopted Local Planning Guidance Note 16 'Parking Standards' (LPGN16). Whilst I have found in favour of the Applicant on this issue, nonetheless in this instance I consider the Council provided adequate and reasonable written and oral evidence in defence of their case based on local planning policy and the adopted LPGN16 and therefore is not necessarily to be regarded as unreasonable behaviour.
7. In regards to the Council's second reason for refusal, the Council failed to provide any technical evidence to demonstrate that the proposed servicing and delivery arrangement would result in service vehicles occupying parking spaces any longer than is reasonably necessary and making manoeuvres within the site and onto the A525 to the detriment of highway safety. Rather it relied upon evidence that was at odds with the applicant's submitted swept path analysis, and details contained within the submitted Delivery Management Plan, which clearly indicated such manoeuvres, could take place in a timely fashion, without conflict with customers' parked cars or pedestrians.
8. The Council's behaviour in this regard has been unreasonable and has resulted in the Applicant incurring unnecessary and wasted expense. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has been demonstrated and that a partial ward of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wrexham County Borough Council shall pay to Blakemore Property Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in adducing evidence in relation to effect of the proposal on highway safety issues raised in the Council's second refusal reason.

10. The Applicant is now invited to submit to Wrexham County Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Declan Beggan

INSPECTOR