
Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 30/10/18

**gan Siân Worden BA MCD DipLH
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/12/18

Costs Decision

Site visit made on 30/10/18

by Siân Worden BA MCD DipLH MRTPI

an Inspector appointed by the Welsh Ministers

Date: 05/12/18

Costs application in relation to Appeal Ref: APP/M6825/A/18/3208210

**Site address: Land adjacent to Laugharne Primary School, Laugharne,
Carmarthenshire SA33 4SQ**

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, 322C and Schedule 6.
 - The application is made by Mr and Mrs Thomas for a full award of costs against Carmarthenshire County Council.
 - The appeal was against the refusal of planning permission for residential development including 42 no. dwellings
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Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions

2. The appellants submitted their application for costs in writing. Carmarthenshire County Council did not respond.

Reasons

3. The Development Management Manual (DMM) 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 expense in the appeal process.
4. Council officers were aware of the significant concerns of the local community in respect of the lack of the previously-agreed package of benefits which had accompanied the earlier planning permission. The matter was explored thoroughly in the first committee report¹.
5. Officers advised, rightly, that that benefits package would not meet the CIL Regulation 122 tests whereas the submitted obligation conferring alternative contributions would. Despite this advice the application was refused on the basis that, in the absence of a community benefits package as previously agreed, the long term future of the

¹ 17 April 2018

adjacent playing field would not be secured. In pursuing unreasonable planning obligations in connection with the granting of planning permission where it would not be justified and would not accord with the law or relevant policy the Council thus demonstrated unreasonable behaviour as described in DMM Section 12 Annex, paragraph 3.11 (k).

6. Members were entitled to take a different view from officers and did not have to adhere to professional advice. In such circumstances, however, they must have evidence to substantiate their reasons for refusal. An objector had submitted a legal opinion on the matter but officers had also taken legal advice which supported their view. As can be seen from the decision my findings on the case are in line with those of the officers. The failure to produce evidence to substantiate the reasons for refusal is another example of unreasonable behaviour².
7. The Council therefore prevented development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations. This was a further demonstration of unreasonable behaviour³.
8. In unreasonably refusing the application the Council caused the appellants the unnecessary expense of pursuing the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the DMM has been demonstrated and that a full award of costs is justified.

Costs Order

10. In exercise of the powers under section 322C 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 Carmarthenshire County Council shall pay to Mr and Mrs Thomas, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to Carmarthenshire County 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.

Síân Worden

Inspector

² DMM Section 12 Annex, paragraph 3.11 (b)

³ DMM Section 12 Annex, paragraph 3.11 (a)