



Penderfyniad Costau

Ymchwiliad a gynhaliwyd ar 09/09/08
Ymweliad â safle a wnaed ar 09/09/08

Costs Decision

Inquiry held on 09/09/08
Site visit made on 09/09/08

gan/by Gareth A. Rennie MRTPI FRGS

**Arolygydd a benodwyd gan y Gweinidog
dros yr Amgylchedd, Gynaliadwyedd a
Thai, un o Weinidogion Cymru**

**an Inspector appointed by the Minister for
Environment, Sustainability and Housing,
one of the Welsh Ministers**

Dyddiad/Date 27/11/08

Costs application in relation to Appeal Ref: APP/M6825/A/08/2072467

Site address: Maes y Coed (pt enc 7136), Hafod Bridge, Llanwrda, SA19 8BG

The Minister for Environment, Sustainability and Housing has 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, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Carmarthenshire County Council for a full award of costs against Mr & Mrs E Thompson.
- The inquiry was in connection with an appeal against the refusal of planning permission for one bungalow.

Summary of Decision: The application fails and no award of costs is made.

The Submissions for the Council

1. An application is made for the award of full costs having regard to the provisions of circular 23/93 and in particular paragraph 11 of Annex 1, paragraphs 3 & 5 of Annex 2, and paragraphs 1-6 of Annex 3.
 2. The appellants' agent made a telling comment during the inquiry, to the effect that the appellants were determined to have a house on the appeal site. Other applications for this development and an appeal have been unsuccessful. The issues of employment and housing need for a dwelling on the site have been tested by the Council and have been unsuccessful.
 3. The appellants also introduced new issues. Evidence has been put forward of other visual intrusions in landscape such as the adjacent chicken sheds. The idea was subsequently presented, however, of Hafod Bridge as a settlement. This arose after the appeal was put forward.
 4. The decision was in accordance with the development plan and is abundantly clear and in accordance with National policy. The Council considers that this appeal was presented when it had no reasonable chance of success. The previous appeal found against an argument based on policy H8 of the Carmarthenshire Unitary Development Plan (UDP) and the Council considers that there have been no material changes to the proposal or policy since the date of that appeal.
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The Response by the appellants

5. The appellants dispute any unreasonable behaviour that has led to additional costs and fail to see that new issues were introduced. All matters discussed were already mentioned in submissions.
6. It was considered that there was a reasonable chance of success of both the application and appeal and the appellants would not have gone to such lengths if they considered that there was no real prospect of success. The Council also gave no indication that it would make an application for costs and the appellants hope that this application is not a means of imposing a financial deterrent against any future applications.
7. The appellants also requested a meeting with the Council to discuss a Statement of Common Ground (SOCG) which may have dealt with some of the issues discussed during the inquiry. The Council failed to respond to this request and no SOCG was prepared.

Conclusions

8. I have considered this application for costs in the light of Circular 23/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
9. The proposed development had been the subject of a previous refusal and subsequent appeal. The issues in that case had been based on whether there was both a functional and financial need for Mr Thompson to live close to his work in the forestry sector. The inspector in that case found that there was not sufficient evidence in favour of the proposed dwelling.
10. Whilst the appellants did include reference in this appeal to Mr Thompson needing to be close to his place of work it was made clear during the inquiry that the appellants were not claiming either a functional or financial need but were stating that for convenience and sustainability issues that it would be more favourable for the appellants to live on the appeal site.
11. The basis of the appellants' argument was that Hafod Bridge is an existing small settlement, and that the appellants had a demonstrable need for affordable housing. This, it was claimed, provided an exception to policies within the UDP restricting the supply of housing.
12. It was agreed at the inquiry that the appellants met most if not all of the local need criteria contained within policy H7 of the UDP. The appellants also produced evidence to support their claim that Hafod Bridge could be considered as a settlement. This argument was clearly presented within their proof of evidence and I consider that no new evidence was presented to the inquiry. I also consider that the appeal was based on material considerations that had not been tested at the previous appeal.
13. I conclude that the appellants made an appeal based on a reasonable interpretation of policies within the UDP, in particular the criteria relating to affordable housing in minor settlements contained within H6. They did not

reiterate previous arguments that had been dismissed at appeal and, my decision notwithstanding, did not present a case that that no reasonable prospect of success.

14. Consequently I consider that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has not been demonstrated and I therefore conclude that an award of costs is not justified.

Formal Decision

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

Gareth A. Rennie

Inspector