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## Penderfyniad ar gostau

Ymweliad safle a wnaed ar 09/01/19

gan Hywel Wyn Jones BA (Hons) BTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 07.02.19

## Costs Decision

Site visit made on 09/01/19

by Hywel Wyn Jones BA (Hons) BTP  
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 07.02.19

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**Costs application in relation to Appeal Ref: APP/E6840/A/18/3215360**

**Site address: 6 Caestory Avenue, Raglan, Usk, NP15 2EH**

**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 Mrs Clare O’Keeffe for a full award of costs against Monmouthshire County Council.
  - The site visit was in connection with an appeal against the refusal of planning permission for the erection of new detached dwelling house.
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### Decision

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

#### The submissions for Mrs Clare O’Keeffe

2. For reasons set out in its written submission the application for an award of costs is based on the unreasonable actions of the Council in refusing permission against the advice of its professional advisers without any objective analysis to support its decision.

#### The response by the Council

3. No response has been received.

#### Reasons

4. The Section 12 Annex, Award of Costs, to the Development Management Manual 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.
  5. Paragraph 3.9 advises that local planning authorities are not bound to adopt the professional or technical advice given by their own officers. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority.
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6. Contrary to the suggestion in the application for costs the separation distances between the windows of the proposed dwelling and neighbouring properties did not form part of the Council's decision to refuse the application.
7. Its decision was based on the effect on the character and appearance of the area and was contrary to the advice of its officers. I acknowledge that this is a matter that involves a degree of subjective judgement and that the Council's elected members are not bound to accept the advice of their officers. I also note that prior to making its decision the planning committee carried out a visit to the site.
8. However, the reason for refusal refers to 3 specific aspects of the proposed dwelling that is deemed to be out of keeping with the area: height, scale and massing. No additional information has been provided by the Council to support its decision. It has not shown how the proposal differs in these detailed aspects from existing buildings nor has it shown how any differences would be harmful to the area. As explained in my appeal decision I have found that the scheme is similar in terms of the identified aspects to many of the buildings nearby. Moreover, the Council's decision fails to acknowledge that there is already a mix of house types and sizes in the area, nor to recognise that the proposed dwelling would be positioned away from any street elevation.
9. For the above reasons I find that the Council has failed to substantiate its reason for refusing the application. Its actions were unreasonable as described in the Annex. It has caused the applicant to incur the unnecessary expense of pursuing an appeal. I conclude that a full award 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 Monmouthshire County Council shall pay to Mrs Clare O'Keeffe 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.
11. Mrs Clare O'Keeffe is now invited to submit to Monmouthshire 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.

*Hywel Wyn Jones*

INSPECTOR