



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 12/12/18

gan **Richard E. Jenkins BA (Hons) MSc MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27.02.2019

Costs Decision

Site visit made on 12/12/18

by **Richard E. Jenkins BA (Hons) MSc MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 27.02.2019

Costs Application A - Appeal Ref: APP/E6840/C/18/3213586

Site address: Land at Unit 4 Former Redchillies Thai and Indian Restaurant, Five Lanes North, Five Lanes, Caerwent, Monmouthshire, NP26 5PE

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 174, 175(7) and Schedule 6.
 - The application is made by Mr C Pryce for a full award of costs against Monmouthshire County Council.
 - The appeal was against an enforcement notice alleging: Garage not built in accordance with plans approved under application Ref: DC/2017/00728.
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Costs Application B - Appeal Ref: APP/E6840/A/18/3213595

Site address: Redchillies Thai and Indian Restaurant Residential Quarters, Five Lanes North, Five Lanes, Caerwent, NP26 5PE

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.
 - The application is made by Mr C Pryce for a full award of costs against Monmouthshire County Council.
 - The appeal was against the refusal of planning permission for the retention of amendments to approved application Ref: DC/2017/00728.
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Decisions

Costs Application A - Appeal Ref: APP/E6840/C/18/3213586

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

Costs Application B - Appeal Ref: APP/E6840/A/18/3213595

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

Procedural Matter

3. As set out above, there are two applications for costs at the same site which were submitted with linked planning appeals. Whilst I shall consider each application on its own particular merits, to avoid any duplication, I shall set out my reasoning for each
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of the applications together in this document, albeit with separate formal decisions set out above.

Reasons

4. Welsh Government (WG) guidance relating to an award of costs, in the form of the WG Development Management Manual (DMM) and the associated Section 12 Annex: 'Award of Costs' (May 2017) (Annex 12) advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for an award of costs to incur unnecessary or wasted expense in the appeals process.
5. The applicant contends that, in the above cases, the Local Planning Authority (LPA) acted unreasonably in that it had no evidence base for supporting a refusal of planning permission and subsequently taking enforcement action, referring specifically to the fact that such decisions were contrary to the advice of its professional officers. However, I have set out in the associated appeal decisions that the as-built garage is larger than the approved garage and, in this respect, I consider the arguments in favour of the appeals to have been finely balanced. Indeed, whilst I found through the determination of those appeals that the development would not be materially more harmful than that approved under Ref: DC/2017/00728, given that such matters are largely subjective, I am satisfied that the Council was entitled to come to different conclusions to that of its professional officers.
6. For these reasons, I find that the applicant has not satisfactorily demonstrated that the costs associated with the appeals have been a direct result of unreasonable behaviour. As such, and having considered all matters raised, I conclude that neither a full or partial award of costs is justified in either of the cases. It follows that the applications should therefore be refused.

Richard E. Jenkins

INSPECTOR