



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU

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Dyddiad 22 Hydref 2009
Ein cyfeirnod WAL789A
Eich cyfeirnod
Rhif Ffôn 01244 525970
Rhif Ffacs 01244 525989
E-bost
Tudalen 1 o 2

Annwyl Mr Edwards

Gwrthwynebiad i Gyfrifon 2006-07

Yn ystod fy ymholiadau i wrthwynebiad a wnaed gan etholydd llywodraeth leol i gyfrifon 2006-07 y Cyngor, daeth nifer o faterion i'm sylw rwyf am wneud argymhellion statudol yn eu cylch i'r Cyngor.

Tystiolaeth i gefnogi'r broses o wneud penderfyniadau

Gwnaeth aelodau'r cyngor anwybyddu cyngor proffesiynol swyddogion dro ar ôl tro o ran y datblygiad arfaethedig ym Maenor Wern, Porthmadog. Er nad oes rhaid i aelodau dderbyn argymhellion swyddogion, nid oedd tystiolaeth glir o wrthwynebiad yr aelodau i'r datblygiad ar sail cynllunio cyn y penderfyniad ym mis Mehefin 2006. Comisiynwyd adroddiadau dilynol gan ymgynghorwyr i amddiffyn y penderfyniad a wnaed yn hytrach na chefnogi'r broses o wneud penderfyniadau. Pe bai adroddiadau'r ymgynghorwyr wedi bod ar gael i aelodau pan gafodd y penderfyniad ei wneud, mae'n bosibl y byddai'r arolygydd cynllunio wedi dod i benderfyniad gwahanol o ran dyfarnu costau yn erbyn y Cyngor.

Argymhellion

Mewn achosion pan gaiff penderfyniadau eu gwneud yn groes i gyngor proffesiynol swyddogion, mae'n rhaid i aelodau sicrhau bod tystiolaeth ddigonol ar gael i ategu sail eu penderfyniadau.

Wrth benodi ymgynghorwyr i ddarparu tystiolaeth, dylai amseriad y dystiolaeth a'r defnydd ohoni lywio'r penderfyniadau cynllunio yn y lle cyntaf, nid eu cyfiawnhau yn ôl-weithredol.

Ein cyfeirnod: WAL789A

Tudalen 2 o 2

Eich cyfeirnod:

Dyddiad: 22 Hydref 2009

Mae'r rhain yn argymhellion statudol a wneir o dan Adran 25 o Ddeddf Archwilio Cyhoeddus (Cymru) 2004. Amgaeaf gopi o Adran 25 a 26 o Ddeddf 2004 sy'n nodi'r camau gweithredu y mae'n rhaid i'r cyngor eu cymryd mewn ymateb i'r argymhellion hyn. Yn ei hanfod, mae'n ofynnol i'r Cyngor ystyried yr argymhellion mewn cyfarfod cyhoeddus a gynhelir o fewn mis. Dylai'r cyfarfod hwn gael ei hysbysebu'n gyhoeddus mewn papur newyddion yn yr ardal.

Edrychaf ymlaen at gael eich ymateb i'r argymhellion hyn maes o law. Yn y cyfamser, os bydd gennych unrhyw gwestiynau ar y mater hwn, mae croeso i chi gysylltu â mi.

Yn gywir



Anthony Barrett
Archwilydd Penodedig



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Date	22 October 2009
Our reference	WAL789A
Your reference	
Tel No	01244 525970
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E-mail	
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Dear Mr Edwards

Objection to the 2006-07 Accounts

During my enquiries into an objection made by a local government elector to the Council's 2006-07 accounts, a number of matters came to my attention upon which I wish to make statutory recommendations to the Council.

Evidence to support decision making

Council members repeatedly ignored the professional advice of officers with regards to the proposed development at Wern Manor, Porthmadog. Whilst members are not bound to accept the recommendations of officers, the opposition of members to the development on planning grounds was not well evidenced prior to the decision in June 2006. Subsequent reports from consultants were commissioned to defend the decision made rather than support the decision making process. Had the consultants' reports been available to members at the time the decision was made then the planning inspector may have taken a different view with regards to the awarding of costs against the Council.

Recommendations

In instances when decisions are taken contrary to the professional advice of officers, members must ensure that there is sufficient evidence to support the basis of their decisions.

When engaging consultants to provide evidence, the timing and use of the evidence should be to inform the planning decisions in the first instance, not to justify them retrospectively.

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Your reference:

Date: 22 October 2009

These are statutory recommendations made under Section 25 of the Public Audit (Wales) Act 2004. I have enclosed a copy of Sections 25 and 26 from the 2004 Act which detail the action the Council has to take in responding to these recommendations. Essentially, the Council is required to consider the recommendations at a public meeting held within one month. This meeting should be advertised publicly in a newspaper for the area.

I look forward to receiving your response to these recommendations in due course. In the meantime, if you have any queries on this matter, please call me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Barrett', with a stylized flourish at the end.

Anthony Barrett
Appointed Auditor

EXTRACT

Public Audit (Wales) Act 2004

25 Procedure for consideration of reports and recommendations

- (1) This section applies if a body is required under section 24(2)(b) to take a report into consideration in accordance with this section.
- (2) This section also applies if an auditor of any accounts of a local government body in Wales—
- (a) sends to the body a written recommendation, and
 - (b) states in the document containing the recommendation that in his opinion the recommendation should be considered in accordance with this section.
- (3) But subsection (2) does not apply if the body is—
- (a) a port health authority;
 - (b) a conservation board;
 - (c) an internal drainage board;
 - (d) a local probation board.
- (4) If this section applies, the body must consider the report or recommendation at a meeting held by it before the end of the period of one month starting with the day on which the auditor sends the report or recommendation to it.
- (5) At the meeting the body must decide—
- (a) if a report under section 22 is considered at the meeting, whether the report requires it to take any action;
 - (b) if a recommendation within subsection (2) is considered at the meeting, whether the recommendation is to be accepted;
 - (c) what action (if any) to take in response to the report or recommendation.
- (6) An auditor may extend the period of one month mentioned in subsection (4) in relation to a report or recommendation if he is satisfied that it is reasonable to allow the body more time to comply with its duties under subsections (4) and (5) in relation to the report or recommendation.
- (7) A period may be extended under subsection (6) more than once.
- (8) Nothing in section 101 of the Local Government Act 1972 (c. 70) (delegation of functions) applies to a duty imposed on a body by this section.
- (9) This section does not affect any duties (so far as they relate to the subject-matter of a report or recommendation) imposed by or under—
- (a) this Act;
 - (b) sections 114 to 116 of the Local Government Finance Act 1988 (c. 41) (reports by chief finance officers);
 - (c) section 5 of the Local Government and Housing Act 1989 (c. 42) (functions of monitoring officers);
 - (d) any other enactment.

26 Publicity for meetings under section 25

- (1) This section applies if a body is required under section 25(4) to hold a meeting.
- (2) The meeting may be held on a particular day only if, at least seven clear days before that day, a notice complying with subsection (3) has been published in a newspaper circulating in the area of the body.
- (3) A notice complies with this subsection if it—
 - (a) states the time and place of the meeting,
 - (b) indicates that the meeting is to be held to consider an auditor's report or recommendation (as the case may be), and
 - (c) describes the subject-matter of the report or recommendation.
- (4) As soon as practicable after the meeting the body must—
 - (a) ensure that the auditor is notified of the decisions made by the body under section 25(5),
 - (b) obtain the approval of the auditor to a written summary of those decisions ("the approved summary"), and
 - (c) ensure that a notice containing the approved summary is published in one or more newspapers circulating in the area of the body.
- (5) The approved summary need not summarise any decision made at the meeting while the public were excluded—
 - (a) under section 100A(2) of the Local Government Act 1972 (confidential information);
 - (b) in pursuance of a resolution under section 100A(4) of that Act (exempt information);

[END]