



Costs Decision

Site visit made on 8 May 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2024

Costs application in relation to Appeal Ref: APP/H1840/W/24/3336448 Land off Brickyard Lane, Drakes Broughton, Pershore, Worcestershire WR10 2AH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr Rodway for a full award of costs against Wychavon District Council.
- The appeal was against the refusal of an application for Permission in Principle for a minimum of 6no. dwellings and a maximum of 8no. dwellings.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may 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.
3. Paragraph 049 of the PPG¹ indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, not determining similar cases in a consistent manner and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.
4. The applicant's claim is based on the assertion that the Council failed to carry out the planning balance correctly, that they have not determined the appeal proposal consistently with similar applications, and that the Council placed disproportionate weight on the development boundary and the Principle Timbered Farmland (PTF) landscape.
5. The Council, within their statement of case and costs rebuttal, have clearly set out the reasons why the development was not acceptable given the countryside location and the harm to the PTF. The Council have set out the justification for the reason for refusal and related the concerns to relevant development plan policies.
6. As detailed in my formal decision the site is within open countryside and, therefore, does not comply with Policy SWDP 2 of the South Worcestershire Development Plan, adopted 2016 (SWDP). This harm is attributed weight in both the Council's decision and in my appeal decision. The weight the Council

¹ Paragraph: 049 Reference ID: 16-049-20140306

- then attributed to the harm to the PTF justified its refusal when considering the planning balance in paragraph 11d) of the National Planning Policy Framework.
7. The Council have clearly exercised the planning balance in attributing weight to the harms against the benefits that would result from the development. The weight to be given to any harm is a matter for the decision maker and that I found less harm to the PTF than the Council does not mean that the Council placed too much weight on this matter.
 8. With regard to the other decisions referred to by the applicant it is noted that all of these were all determined before the adoption of the SWDP and under previous versions of the National Planning Policy Framework. The other sites referred to by the appellant are also all materially different to the appeal before me. Sites 1 and 5 are closer to the village services and closer to the main body of the village. In that regard they are in a different context to the appeal site. Site 2 is noted in the appeal decision as previously developed land, and this would have been material to the decision. Sites 3 and 4 both propose road fronting development continuing the built form of the street scene, albeit beyond the settlement boundaries, and are, therefore, different to the appeal proposal. The proximity of the main road to site 3 is also a material difference to the context of site 3 versus the appeal before me.
 9. For these reasons, the Council was justified in making the decision it did on the weight it attributed to the PTF and the countryside differently to the quoted sites. Although I have reached a different conclusion on the effect of the proposed development on the countryside and PTF, there is sufficient evidence that the Council had reasonable concerns about the proposed development which justified its decision. The appellant had to address those concerns and therefore the appeal could not have been avoided.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR