



Costs Decision

Site visit made on 22 May 2024

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2024

Costs application in relation to Appeal Ref: APP/H1840/W/23/3332166 Land to southwest of Babylon Lane, Bishampton WR10 2NN

- 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 Philip Deeley of Matthews Construction for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for an outline application with all matters reserved bar access for the construction of 3 no. 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. It is evidenced that the Council has allowed development outside the settlement boundary. In particular, a development at Nightingale Fields¹ was granted planning permission around the same time as the appeal proposal was determined. Appeals have also allowed development outside settlement boundaries within the district mainly due to the Council's failure to demonstrate a five year supply of housing land.
4. The applicant questions the inconsistency in the Council's approach. However, the Council has described the differences between the appeal site and that at Nightingale Fields. It has referred to its decision as being finally balanced and I can appreciate how this may seem to conflict with the terminology in the Framework that harm should significantly and demonstrably outweighs the benefits. However, I do not find that the Council's analysis leading up to its decision intrinsically flawed.
5. Each application or appeal is not identical and the site specific circumstances are material considerations. It is not a matter of one decision being right or wrong or its conclusions being capable of being applied to another case. Therefore, it does not follow that the same outcome would arise in each case, even if there are some similarities.
6. The applicant questions the Council's position with regard to the landscape type and definitions set out in an information document. Whether Bishampton meets a particular definition in terms of its settlement pattern only seems to have

¹ Planning Application Ref: 23/00933/PIP.

confused the matter of assessing the impact of this proposal. Assessing the impact of a development on the character and appearance of a landscape or its setting is generally a subjective matter.

7. I am satisfied that the Council has not behaved unreasonably. Its decision has not prevented development that otherwise should clearly have been permitted, having regard to the development plan, national policy and other material considerations and the appellants therefore have not incurred unnecessary or wasted expense in submitting this appeal.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J D Clark

INSPECTOR