The Planning Inspectorate

# Costs Decision

Hearing held on 28 March 2023

Site visit made on 28 March 2023

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 12th April 2023**

**Appeal Ref: APP/A1910/W/22/3296310**
**Flaunden House Stables, Flaunden, Hemel Hempstead HP3 0PW**

- 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 appeal is made by Flaunden Construction Ltd for a full award of costs against Dacorum Borough Council.
- The appeal was against a refusal of the local planning authority to grant planning permission for conversion of existing agricultural barn to form a 4 bed detached dwelling; conversion of existing agricultural barn to form a 2 bed detached dwelling with manager's office; single storey rear extension to coach house; and refurbishment and improvement of existing stables, without complying with a condition attached to planning permission Ref 4/03481/15/MFA, dated 5 July 2016.

## Decision

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

## Reasons

2. 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. Both the costs application and the Council's response were submitted in writing in advance of the Hearing. Neither party made any further addition.

3. The applicant asserts that the Council acted unreasonably on a number of grounds which I shall consider below with reference to the bullets used to order them within the application.

*Grounds (i) and (ii)*

4. The applicant claims that there is no evidence that occupation of the conversion as an open market dwelling would conflict with Policy CS5 of the Core Strategy 2013 (the CS), and that the Council failed to evidence its view that Condition 9 served a useful planning purpose. Whilst Ground (i) is based on both a misreading of Policy CS5, and an incorrect identification of the existing use as Class C3, it was for the applicant to provide sound economic justification for removal of the tie. I have otherwise found that Condition 9, whose imposition ensured compliance with Policy CS5(d)(ii) of the CS, continues to serve a necessary economic purpose. Grounds (i) and (ii) therefore fail.

*Grounds (iii) and (iv)*

5. Grounds (iii) and (iv) each identify the drop-in permissions subsequently

granted as being indicative of the acceptability of open market housing, and thus the acceptability of the proposal to remove Condition 9. Whilst misidentification of the existing use as Class C3 again underpins Grounds (iii) and (iv), the relevant question was not whether open market housing would be acceptable, but whether the explicit tie that Condition 9 imposed between occupancy of the conversion and employment at the stables was necessary. Grounds (iii) and (iv) therefore fail.

*Grounds (v) and (vi)*

6. Neither of these Grounds are properly explained. Indeed, whilst they state that the Council misunderstood the main issue, and focused on irrelevant considerations, they say little more. It is not otherwise obvious what is meant. Grounds (v) and (vi) therefore fail.

*Ground (vii)*

7. Ground (vii) takes issue with the Council's implied suggestion that a holistic application, or one applicable to the whole of the site subject of the original planning permission, would have been more appropriate. This was not an unreasonable suggestion in itself, and how or why the applicant incurred any related expense in the appeal process is unclear. Ground (vii) therefore fails.

*Ground (viii)*

8. The applicant claims that the Council acted unreasonably in introducing an additional reason for refusal at appeal based on social infrastructure. I agree that this was unreasonable. Nonetheless, as set out in my main Decision, the reasons for imposing Condition 9 included 'to ensure the stables opposite will be retained and offered to local people for the stabling of their horses'. This was therefore a matter which broadly fell to be considered and addressed. Therefore, even though I do not share the Council's view that Condition 9 serves a necessary purpose in relation to the preservation of social infrastructure, the applicant did not incur unnecessary expense in dealing with the matter within the context of the appeal.

*Summary*

9. My findings above indicate that though the Council unacted unreasonably in relation to Ground (viii), the applicant did not incur any unnecessary or wasted expense in the appeal process.

## Conclusion

10. For the reasons set out above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated, and that an award of costs is not therefore justified.

*Benjamin Webb*

INSPECTOR