



Costs Decision

Site visit made on 12 April 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Costs application in relation to Appeal Ref: APP/A1910/W/22/3303737 Flaunden Stables, Honeysuckle Barn, Birch Lane, Flaunden, 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 application is made by Flaunden Construction Ltd for a full award of costs against Dacorum Borough Council.
 - The appeal was against the refusal of planning permission for the construction of a detached dwelling on land adjacent to Honeysuckle Barn'.
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Decision

1. The application for an award of costs is allowed, in part, in the terms set out below.

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. The application for a full award of costs is made on substantive grounds.
3. The applicant submits that the Council has acted unreasonably in that it has introduced new issues at a late stage, specifically reference to the loss of the equestrian use of the land, to which the Council refer to as social infrastructure, and the suitability of the site for housing having regard to access to services and public transport.
4. The applicant also contends that the Council erred in its insistence of the need for a legal agreement at the Permission in Principle (PIP) stage to secure a financial contribution towards mitigation measures as a consequence of the Chilterns Beechwoods Special Area of Conservation (SAC) designation.
5. The Council's sole refusal reason relates to the effect of the development on the character and appearance of the Flaunden Conservation Area. With regards to the loss of the grazing land as part of the equestrian use of the wider site, the Officer's report indicates that this matter was not for consideration as part of the PIP application.
6. However, the Council's appeal submissions later raised the issues as set out above, which were not relied upon as part of the refusal of the application. The equestrian use of the land and the location of the site were not determinative in the appeal, given my findings in relation to the main issue. Nevertheless, the applicant had to carry out additional work that was not initially anticipated in order to respond to these additional matters through the submission of their

final comments. I therefore find that it was unreasonable behaviour that the Council later relied on these matters in their Statement of Case.

7. With regards to the Council's case in so far as it relates to the absence of a mechanism to secure monies in relation to the potential effects of the development upon the SAC, this matter was raised by the Council at the appeal stage as the Footprint Ecology Report on 14 March 2022 and receipt of revised guidance from Natural England postdates the date of the Decision Notice. The Council contends that a legal agreement is required in order to secure appropriate mitigation measures to ensure there would be no adverse effect on the SAC as a result of the proposal.
8. The PPG sets out that planning obligations cannot be secured at the PIP stage. However, it also highlights that PIP must not be granted for development which is habitats development unless the local planning authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affect the integrity of the protected site (Paragraph: 005 Reference ID: 58-005-20190315). Therefore, it was not unreasonable for the Council to raise this change of circumstance in evidence.
9. I therefore find that unreasonable behaviour by the Council, through the introduction of late evidence relating to the loss of the equestrian land and locational sustainability, which has directly caused the applicant unnecessary and wasted expense, has been demonstrated and that a partial award of costs relating to this aspect only, is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dacorum Borough Council shall pay to Flaunden Construction Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in producing evidence in connection with the loss of grazing land, access to public services and public transport.
11. The applicant is now invited to submit to Dacorum Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, such costs shall be assessed by the Senior Costs Office.

Emma Worley

INSPECTOR