

Application No APP/L1765/C22/3306531 & APP/L1765/C/22/3306532

S & D Nurseries, Dradfield Lane, Southampton, Hants. SO32 3QD

APPELLANTS COSTS REBUTTAL

The appellant notes the LPA are seeking a full award of costs and therefore no rebuttal will be submitted in relation to a partial award.

The appellant denies misleading or failing to adhere to any legislation that led the LPA to produce statements which they consider has no relevance to the grounds of appeal.

The LPA claim no objective evidence had been provided. Firstly, prior to the service of the enforcement notice, the appellant met the investigating Enforcement Officer and co-operated with her questions, and requirements to view the holding. The appellant found it hard to maintain this co-operation as he considered the Officer to be extremely rude and intimidating. The LPA say no objective evidence has been provided, that simply is not true. A full appraisal of the enterprise was submitted along with projected accounts, business plan and man hours required to meet the functional need of the enterprise. This was sent to the Inspectorate on 8th November 2022 who forwarded it to the LPA. Therefore, it is not true that at the date of this cost application, 2nd December 2022, no solid evidence had been provided. It was NOT provided at the final comment stage, as claimed.. The Council Officer made a second visit after this submission and her conduct was far from professional, she was very rude so the appellant politely asked her to leave as he did not think she was justified in giving him the verbal abuse that she did. She pointed to her landyard and said she could go and do what ever she wanted.

The LPA quote the Government online guidance “only supplying relevant information when it was requested but not provided at an earlier stage”. As stated above during the Officers first visit she was shown all the equine facilities, horses and stables which formed part of the equine enterprise.

It is claimed that the Enforcement Officer specifically questioned Kevin Hall to the nature of the land including his landscape business (confirmed not to operate on the land) and the equestrian activity which he confirmed was for private use. He also confirmed there was no commercial activity on the land(denied). The actual truth of the matter was that the Officer was advised the landscape business did not operate on the land and the Officer was shown horses in their stable which was described to her as private liveries. This meant that these horses did not form part of the stud or training enterprises. As the Officer only wanted to hear what she wanted, she should have pursued the word liveries, as this is a commercial activity. Following the inspection of the livery horses the Officer passed by a number of vehicles which she questioned their use. One such vehicle was a 7.5 ton horse box with Southfield Welsh Cob Stud written on it and on the side of the wagon the stallions were advertised for stud. During the conversation it is agreed that the appellant was considering rearing pigs, as part of pasture rotation.

At no time was the appellant offered an opportunity to submit an application following the visit. It is believed there is no legislation that a person carrying out development must submit a planning application. If the Enforcement Officer had conscientiously carried out her investigations, it would be evident there was a commercial equine business taking place. She was shown the stallions which were standing at stud and every building was available for her inspection and there was no concealment as to the horses. She was shown the new tack room and all the training equipment. The Council maintain that it **APPEARS** the equine argument was put together purely to attempt to overcome policy objections.

The appellant was unaware that an application could be made to meet the functional need of an equine business and had no idea that there was the possibility of submitting a planning application until an agent was employed to assist with appealing the Enforcement Notices.

Further Government guidance is quoted but the appellant and his agent believe the application is in accordance with the development plan and is supported by the NPPF.

It is agreed the policies for a permanent dwelling were used but these are basically the same tests for a temporary dwelling, and it could be up to an Inspector having heard all the evidence to grant a permission conditioning it for a temporary period.

Once again, the LPA are misleading the Inspectorate with the evidence put forward relating to this cost claim. It has already been stated that a 2-year business plan had been provided showing all the projections for future incomes. The appraisal submitted with the statement clearly sets out the nature of the business and the appellants qualifications showing her expertise in the equestrian field.

The Council have wasted the appellants time having to spend time rebutting the claim for costs where they have clearly misled the Inspectorate with the true facts regarding the lack of information and notice the Council had of the equestrian enterprise. This is clearly a case where the LPA have failed to fully investigate and take advantage of the time limits to present its best case.

Again, the LPA continue to argue there was a total lack of evidence to support this application, but the Inspectorate know this not to be true as the appellant sent all this information highlighted by the Council on 2nd November, 2022. It is usual practise for the LPA to employ the services of a Land Agent to establish the evidence available but they chose not to in this case. The LPA were aware of the equestrian case put forward on 7th September 2022 from the appeal form. This was 8 weeks before statements were due, plenty of time to respond to the appellants case. As previously stated, the Enforcement Officer made a second visit to the stud, when the information the LPA say is missing could have been shown to her and copies given but due to her unacceptable behaviour the meeting was cut short. It should be noted that this cost application mentions Claire Slaters equestrian certifications and a bank account which proves the LPA had sight of the appraisal etc. where these matters were discussed. The appellant believes that the LPA have mis-directed themselves and the information they say is required is more akin to a ground (d) appeal or a certificate of lawful use. It was made clear in the appraisal that the equine business

evolved at the end of the pandemic when the livery part of the business began. The training, schooling, breaking and stud work began in May 2022.

It is not usual or a requirement to show a business is immediately viable, it only has to be planned on a sound basis. The appellant agrees it would have been beneficial to have discussed some of the points they raise however, the Enforcement Officers conduct was so unreasonable there was no hope of working together and the appellant was never advised there was an opportunity to submit a planning application to meet the equine functional need of the business.

The appellants business relies on the onsite accommodation to meet the functional need. Why do the LPA consider that the proprietor should not exercise his right to undergo a planning appeal? I think this statement sums up the Enforcement Officers attitude in this case.

It is considered that the LPA's version of events are questionable and muddled and this is reinforced by the email from the Winchester Appeals Officer dated 2nd December, 2022. Firstly it refers to the LPA's cost rebuttal which it was not, it was for an award of costs. It is also noted that the email refers to "yesterday". Yesterday would have been 1st December, 2022 and the comments had to be with the Inspectorate BY 1st December, and not on or before. That means the comments should have been with the Inspectorate on or before 30th November, 2022. The email was accepted in good faith by the Inspectorate which claims that the Planning Officer had to take her ?? urgently to the doctors and was unable to forward the documents in time. Yesterday 1st December, 2022 was a Thursday and the Officer in fact does not work on Thursdays.

Below is an extract from an email relating to another case, where is confirmed she does not work Thursdays.

If you could respond with a mutually convenient date for a site visit to be undertaken, I am available most days except for Thursdays. I can then provide a more comprehensive update outlining your options in relation to this. It would also be helpful if you could provide a date that the residential use began and the date the building was completed. For the avoidance of doubt I include a photo of the building in question below;

If you have any further questions please do let me know.
Kind regards,

Kate Longley
Enforcement Contractor

Winchester City Council
Colebrook Street
Winchester, SO23 9LJ

Tel: 01962 848 480
Ext: 2602



Winchester
City Council



Gerry, Jena From: Appeals Officer Sent: 02 December 2022 12:34 To: TeamE1 Cc: Kate Longley; Lorna Hutchings Subject: S & D Nurseries - APP/L1765/C/22/3306531 and APP/L1765/C/22/3306532 Attachments: Appeal Southfields COMPLETE.pdf; Southfields costs application .pdf

Dear Paul Please find attached our Final Comments and Costs Rebuttal for S & D Nurseries - APP/L1765/C/22/3306531 and APP/L1765/C/22/3306532.

The Final Comments were due to be submitted yesterday but due to the planning officer having to take her urgently to the doctors was unfortunately unable to forward on the documents in time for submission. We would appreciate if the Inspector would kindly accept them as the document contains our response to the late information received from the Appellant and in respect of the submission of the finance appraisal. Kind regards, Alice Alice Honan Appeals Officer Winchester City Council Colebrook Street Winchester, SO23 9LJ Tel: 01962 848599 Ext: 2610

The appellant wishes to give notice that a costs award will be claimed should the Inspector find that the notice is defective. The requirements exceed the breach identified. The hardstanding, unknown out buildings and storage containers are not sited, the only requirement which relates to the breach is (i) the removal ,and use of the unauthorised residential caravan.