

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

CO/ 4784 /2018

Civil Appeal
HW
1/4/2019

BETWEEN:

CAMILLA SWIRE

Claimant

and

CANTERBURY CITY COUNCIL

Defendant

and

SUNNINGDALE HOUSING DEVELOPMENTS LIMITED

Interested Party



CONSENT ORDER

UPON the Claimant having applied for judicial review of the Defendant's delegated decision dated 15 October 2018 to grant planning permission under section 73 of the Town & Country Planning Act 1990 under reference CA/18/01477/VAR, specifically variation of condition 2

AND UPON permission to apply for judicial review having been granted on Grounds 1 & 2 by the order of John Howell QC (sitting as Deputy High Court Judge) on 24 January 2019

BY CONSENT IT IS ORDERED that:

1. The claim for judicial review be allowed.
2. The grant of planning permission dated 15 October 2018 be quashed.
3. The Defendant pay the Claimant's costs of the proceedings to be assessed if not agreed.
4. There be no other order as to costs.

By the Court

Signed..... *RS* Dated..... *12 March 2019*

For Richard Buxton Solicitors, Solicitors for the Claimant

Signed..... *Peter Vee* Dated..... *12 March 2019*

For Canterbury City Council

Signed..... *n/a* Dated..... *n/a*

Sunningdale Housing Developments Limited, Interested Party – NO RESPONSE see reason 6 below

By the Court

STATEMENT OF REASONS FOR THE MAKING OF THE CONSENT ORDER

1. On 16th September 2015, the Council's Planning Committee granted planning permission (ref: CA/15/00683/FUL) at the Site for the following development:

"Restoration of agricultural land across two adjoining sites; demolition of 5 no. existing derelict barns; the processing of on-site materials and associated landscaping; the construction of an enabling development of 10 no. residential units with a new integral access."

This was varied by planning permission CA/16/02177/VAR on 17 November 2016.

2. On 15 October 2018 the Defendant Council granted by way of a delegated decision planning permission (CA/18/01477/VAR) under s.73 of the Town and Country Planning Act 1990 for:

'Variation of condition 02' (drawings) of planning permission CA/16/02177/VAR for the restoration of agricultural land across two adjoining sites; demolition of 5 no. existing derelict barns; the processing of on-site materials and associated landscaping; the construction of an enabling development of 10 no. residential units with a new integral access; to allow reduced house sizes and external alterations' ("the Development") at Larkey Woods Farm, Cockering Road, Chartham, CT4 7PQ ("the Site").

3. The Claimant challenged the Defendant's decision on 15 October 2018 on three grounds:

(1) Failure to take into account a material consideration – namely ecological advice concerning the development and thus whether the principle of the proposed residential development on the site remained acceptable.

(2) Failure to take into account a material consideration - requirement for a minimum 15 metre buffer zone between development and SSSI and Ancient Woodland or, in the alternative, failure to give reasons for not requiring a buffer zone consistently to that extent.

(3) Failure to carry out a screening opinion as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

4. Following receipt of the Defendant's summary grounds of resistance, the Claimant only pursued Grounds 1 and 2 of the claim.
5. On 13 February 2019, the Defendant conceded the claim on Grounds 1 & 2 and agreed to consent to a quashing order.
6. The Interested Party has been kept fully formed of the intended proceedings (PAP letter), was served with the claim form and materials, the Defendant's decision to agree to a quashing order and a copy of this consent order in draft, but has not responded.

By the Court

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