



Costs Decision

Site visit made on 10 January 2023

by B J Sims BSc (Hons) CEng MICE MRTPI

An Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Costs application in relation to Appeal Ref: APP/T0355/W/21/3289347 Storage Land formerly known as Waste Transfer Station, Kimbers Lane, Maidenhead, SL6 2QP.

- 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 John Horwood Skips for a partial award of costs against the Council of the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for: Expansion of existing permitted capacity at Kimbers Lane from 5,000 tonnes per annum of inert waste to 25,000 tonnes per annum of inert, household, commercial and industrial waste, and the erection of a waste transfer building, office building, weighbridge and surrounding bund.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. The application for costs relates to the second reason for refusal concerning traffic generation, highway safety and the absence of a HGV routeing agreement.
4. The Highway Authority raised no objection to the proposed development on traffic or safety grounds, subject only to a condition securing a passing bay on Kimbers Lane. However, the Highway Authority is a mere statutory consultee in the matter and the Council, as determining local planning authority, has discretion as to whether or not to accept the advice of its consultees, provided due reasoning is given.
5. In refusing the application on highway grounds and seeking a routeing agreement, the Council was exercising its judgement that such a mitigatory measure would have been necessary to make the development acceptable in light of the known likelihood of HGV traffic that would result.
6. At appeal the Council did not pursue the matter of a routeing agreement by condition, maintaining that a legal deed was required, but put forward substantive reasoning on traffic grounds that the level of conflict between additional HGVs and increasing vehicle flows on the network would be

unacceptable. That was matter of judgement to which the Council was entitled and the ultimate success of the appeal without a secured routeing agreement does not mean that the conduct of the Council was unreasonable.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

B J Sims

Inspector