



Costs Decision

Site visit undertaken 28 February 2025

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 27 March 2025

Costs application in relation to Appeal Ref: APP/U3100/W/24/3355446

Stonepitt Barn, Kingston Road, Frilford, Abingdon, OX13 5HB

- 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 Mr Sam Belcher (S.C.B (Oxford) Ltd) against the decision of Oxfordshire County Council.
 - The appeal was against the refusal of planning permission 'Part retrospective change of use of land to extend the existing operation, comprising the crushing of concrete granted permission under county council reference MW.0048/17 and horticultural topsoil recycling granted planning permission under district reference P13/V0724/FUL. The erection of a 2m high retaining wall on the western boundary, and the erection of an acoustic barrier (comprising a bund and acoustic fence) up to 6.5m high along the southern boundary of the site and between 4.5 to 6.5-metre high along part of the eastern and northern boundaries of the site. Retrospective change of use of part of building for ancillary storage and maintenance of equipment in connection with the existing concrete crushing and topsoil recycling operations.'
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Decision Costs Application:

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 Appellant has put forward four grounds for unreasonable behaviour which relate to the substantive elements of the appeal (relating to the issues arising from the merits of the appeal). I turn to the grounds below.
4. Ground 1 relates to the Council preventing development which should clearly be permitted and that the planning officer disputed the reasoning of it's technical experts and did not apply a planning balance. There is no information before me that would demonstrate that the Council has behaved unreasonably in this respect. As noted in the appeal, the main policies listed in the reason for refusal were relevant to the determination made and were based upon subjective judgements where the Officer was justified in disagreeing with the internal consultees. The Officer's report details considerations around benefits of the development and clearly gives weight to these benefits against any harms identified when coming to a determination. It was not clear that the application should be permitted. Taking

the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.

5. Ground 2 relates to the Appellant's opinion that the Council has failed to produce evidence to substantiate each reason for refusal. The policies of the Development Plan are worded in that it is the Council that need to be convinced that the application is appropriate and that the documents that are submitted are to justify the development. The application did not contain sufficient justification for the development, there was no assessment of sites which could justify that the site was a suitable and sustainable location, the acoustic report presented failed to assess the full extent of potential noise and there was no evidence submitted pertaining to the ability to control dust or solutions to control visual impacts from the proposed development. The Council were fully justified in refusing the application based upon the lack of information provided which did not give confidence as to the appropriateness of the development. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
6. Ground 3 relates to the Appellant's opinion that the Council has made vague and generalised assertions about the proposal's impact which are unsupported by objective analysis. As discussed in the Appeal, it was incorrect for the Appellant to base this application which is over double the size on the previous application for a small waste development. The existing consent is not similar to the proposed which is over a significantly larger area of land and therefore requires a new assessment over the appropriateness of a use covering this area of land. It was therefore appropriate to apply policies relating to principle, and it was relevant to consider the policies of the Minerals and Waste Local Plan again. The suitability and sustainability of the site was not properly justified by the Appellant, which the appropriateness extends from the assessment of a number of policies such as C1-C8 where there was some compliance and some harm. The assessment of this application does not contradict the previous planning application and the Council were fully justified in making their decision. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
7. Ground 4 relates to the refusing of planning permission on a planning ground capable of being dealt with by decision where it is concluded that the development could go ahead. As demonstrated in the appeal, the principle of the use on the enlarged site had not been established or justified to any extent therefore meaning that the proposal could not go ahead. As the principle had not been established, the detail of the application, even if it could be conditioned for example stockpile heights, machinery conditions; the application was not concluded that it could go ahead. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this matter.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated in this costs application. For this reason, and having regard to all other matters raised, an award for costs in both appeals is therefore not justified.

J Somers

INSPECTOR