

**Case Name:** *Davies, R (On the Application Of) v Oxford City Council* [2022] EWHC 2883 (Admin) (15 November 2022)

**Full case:** [Click Here](#)

**Commentary:** This renewed oral application for permission to bring judicial review proceedings challenging the determination of Oxford City Council to grant planning permission for development at Hill View Farm, Oxford for proposed development in the green belt, was refused by HHJ Karen Walden-Smith.

Mr Tim Smith, sitting as a Deputy High Court Judge, had ordered that permission be granted to proceed on Grounds 3A and 3B of the Claimant's original application but refused permission on Grounds 1A, 1B, 1C and 2. Here, the Claimant renewed its application for permission under Grounds 1A, 1B, and 1C.

HHJ Walden-Smith, at paragraph 13, summarised that the Claimant sought permission to bring judicial review proceedings on the basis that the officer's report had failed in a number of respects.

HHJ Walden-Smith refused each of the application grounds

Ground 1A: failure to identify that the pumping station forming part of the development was a building

HHJ Walden-Smith cited the principle in Lindblom LJ judgment's in *R (Mansell) v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314 that, when considering a challenge to the contents of an officers report, "[t]he question for the court will always be whether...the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice...".

HHJ Walden-Smith held that the planning officer's determination that the pumping station would constitute an "engineering station" was a "perfectly legitimate planning judgment" (at para. 17). The consideration of whether the pumping station is a building is "a matter of fact and degree, and a planning judgment to be made with which the court does not engage" (at para. 23).

Ground 1B: the impact of the pumping station, attenuation pond and access paths on Green Belt purposes

The Judge concluded, at para. 31, that "the impact of the pumping station, attenuation pond and access ways were considered and conclusions reached which were rational and reasonable."

### Ground 1C: impact of the pumping station on openness

The Judge stated that the concept of “openness” of the Green belt has both a spatial and a visual component, and that both of these had been adequately considered in the officer report at paragraph 10.16:

“The OR considered the pumping station to be ‘minimal in scale and height’ (the spatial aspect) and that it ‘would be screened by adjacent landscaping’ (the visual aspect).”

*Case summary prepared by Charlie Austin*