

BIOABUNDANCE COMMUNITY  
INTEREST COMPANY

Claimant

and

SOUTH OXFORDSHIRE DISTRICT COUNCIL

Defendant

and

SECRETARY OF STATE FOR HOUSING, COMMUNITIES  
AND LOCAL GOVERNMENT

Interested  
Party

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CLAIMANT’S GROUNDS OF RENEWAL

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1. The Claimant renews its application for permission to apply for judicial review in respect of Grounds 1-7. The Claimant will expand on its arguments, and will address Dove J’s reasons for refusal, in a skeleton argument submitted prior to the oral renewal hearing. However, in brief, it wishes to emphasise the following points under Ground 1:
  - a) The Claimant notes that in respect of Ground 1 the IP has pleaded that “decisions under s.23 are not confined to land use considerations.” In other words, on the IP’s case, the Defendant enjoys an unconstrained discretion under s.23, a proposition which goes far further than what is stated in the refusal reasons of Dove J. The Claimant maintains that this is simply not the case: a s.23 decision is an exercise of planning judgment that is by definition confined to land use considerations. It is therefore maintained that wider financial consequences to the Defendant were immaterial considerations to the exercise of that judgment.
  - b) The observations of members of the Council that related to the considerations they took into account when voting are plainly relevant to the question of whether the Council *as a whole* took into account material considerations in deciding whether to adopt the Plan. It is not unduly forensic for the Court to consider the Members’ stated reasons for voting on a planning decision such as this, particularly when those statements follow the documentation put before the Members in advance of the meeting.

TIM BULEY QC  
ALEX SHATTOCK  
Landmark Chambers  
31 March 2021