



Costs Decision

Site visit made on 17 May 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2022

Costs application in relation to Appeal Ref: APP/L3815/W/21/3281154 Berth no 16, Chichester Canal, Birdham, Chichester PO20 7EJ

- 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 Pete Bradshaw (Premier Marinas Limited) for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of planning permission for installation of a replacement houseboat at Berth No. 16 of Chichester Canal.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The national Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG adds that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case.
3. The applicant considers that the Council acted unreasonably, in refusing to grant planning permission for the proposed development, contrary to the Case Officer's recommendation. Referring to the PPG, the applicant considers that the Council prevented or delayed development which should clearly be permitted having regard to the development plan, national policy and other material considerations. It is also argued that the Council made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and failed to determine similar cases in a consistent manner. No costs rebuttal has been provided by the Council.
4. Members of the Planning Committee are entitled to reach a different decision to the Case Officer's recommendation, but they have to do so whilst relying on substantive planning grounds. The Council's submissions rely to a large extent on Planning Principle 19 (Houseboats). However, this document was included in the Chichester Harbour Management Plan 2019-2024 after the determination of the planning application and I have been presented with no substantive evidence to show that it was an important material consideration in the Council's decision.
5. As noted in my Decision Letter, Planning Principle 19 notably sets out Chichester Harbour Conservancy's (CHC) approach to houseboat replacement proposals in the Canal. CHC carried out a detailed assessment and raised no

objection to the proposal, and no representation offering an alternative view was made as part of the appeal process, despite the adoption of Planning Principle 19.

6. The applicant's submissions made it clear that similar replacement houseboats to the proposal have been approved by the Council in recent years. However, limited evidence has been presented to explain why an alternative view was reached by the Council in this instance, particularly given the positive recommendation made by the Case Officer and the lack of objection from CHC.
7. With regard to the concerns raised in respect of light pollution, members have failed to recognise that the appeal scheme is for a replacement structure, which would be sited within an existing complex and include similar levels of glazing to other replacement boats previously approved by the Council. Furthermore, it is unclear whether members considered whether this particular matter could have been addressed by way of condition, rather than refusing the appeal scheme on these grounds.
8. For these reasons, I find that the Council has failed to substantiate its concerns and determine similar cases in a consistent manner. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A full award of costs is therefore justified in this instance.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Chichester District Council shall pay to Mr Pete Bradshaw (Premier Marinas Limited), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Chichester District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Edwards

INSPECTOR