
Costs Decision

Site visit made on 27 February 2023

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 21 March 2023

Costs application in relation to Appeal Ref: APP/L3815/W/22/3304529 Houseboat Karibuni, Chichester Canal, Birdham, Chichester, West Sussex 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 Paul Barry Gabriel for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of the Council to grant planning permission for Replacement of Berth 30 Houseboat Karibuni with a Bluefield Houseboat and installation of H-column cored and grouted anchoring system.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The application was made in a timely manner.
4. PPG explains that costs may include, for example, the time spent by appellants and their representatives in preparing for an appeal. Costs applications may relate to events before the appeal was brought, but costs that are unrelated to the appeal are ineligible. So, whilst the applicant says that there have been other directly related costs due to the delays experienced throughout the whole planning procedure, awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
5. The applicant says that the Council acted unreasonably in refusing the application when it had permitted similar developments on the same stretch of the canal. As they had set clear precedents, this was inconsistent decision making by the Council, which was unreasonable. However, it is a well-established principle that each proposal should be considered on its merits.
6. Issues such as the effect of a proposal on the character and appearance of an area require the exercise of planning judgment. In my appeal decision I have

found in favour of the applicant, but the Council's professional officer was entitled to exercise his planning judgment, and to come to a different view. The Council has substantiated its case in its officer's report, which includes a balanced assessment of positive and negative aspects of the scheme. The officer's report explains why the site specific circumstances were considered to be different to those further west. It also refers to the representations of interested parties and consultees including Chichester Harbour Conservancy, which were included with its questionnaire during the appeal process. The Council's reason for refusal was complete, precise, specific and relevant to the application, and it refers to relevant Development Plan policy and guidance. This was reasonable behaviour.

7. My colleague's appeal and costs decisions ref APP/L3815/W/21/3281154 were issued after the planning application had been refused. During the appeal process, and in the light of this change in circumstances, the Council reviewed its case and confirmed that it no longer sought to defend the concerns in its reason for refusal, which was reasonable. There is almost nothing to suggest that the screening direction had any bearing on the Council's change in stance.
8. The Council has complied with procedure during the appeal process by submitting its questionnaire, statement and most other relevant documents in accordance with the timetable. So, its procedural behaviour has also been reasonable.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

J Reid

INSPECTOR