



Costs Decision

Site visit made on 19 August 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 September 2025

Costs application in relation to Appeal Ref: APP/Z1775/W/25/3366741 36 Chichester Road, Portsmouth PO2 0AD

- 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 S Chibber for a full award of costs against Portsmouth City Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use to seven-bedroom house in multiple occupancy.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking an award of costs on substantive grounds.
4. The Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations and failure to produce evidence to substantiate each reason for refusal on appeal.
5. The application was refused for two reasons. The first reason relates to the impact of the proposal on the mix and balance of households in the local community. The second reason relates to the provision of adequate mitigation for the Solent Special Protection Areas (SPAs).
6. The Council's Committee Report confirms that at the time of the application determination, the appellant had secured the required mitigation in accordance with the Council's adopted mitigation strategies relating to SPA impacts arising from recreational activity and increased levels of nutrients. This is supported by the

submitted S.111 Agreement which is dated prior to the date of the Planning Committee meeting at which the application was determined.

7. The Council's appeal statement confirms that, since the S.111 Agreement can only be used in conjunction with a grant of planning permission and the application was to be refused on another ground, it was necessary to include the second reason for refusal. Having regard to the above, I find that this matter has not resulted in any unnecessary delay or wasted appeal costs to the appellant. As such, it is the Council's first reason for refusal which has necessitated the submission of the appeal.
8. The Council provided a very brief appeal statement, which does not add any significant explanatory detail to the first reason for refusal. The Officer Committee Report does not assist, as the application was originally recommended for approval.
9. The Council's decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional view of officers, so long as a case could be made for the contrary view.
10. My appeal decision, which accompanies this costs decision, and should be read in conjunction with it, explains why I have allowed the appeal. Specifically, in respect of the first reason for refusal, it explains why I have found that the Council has provided no substantive evidence to support its view that 52 Chichester Road should comprise an HMO property for the purposes of PP Policy PCS20. Nor has it provided any other detailed compelling evidence as to why it considers the proposal would conflict with the objectives of PP Policy PCS20 and the HMO SPD.
11. As such, I find that the Council failed to produce evidence to substantiate its first reason for refusal and that it relied upon vague and generalised assertions about the proposal's impacts upon the mix and balance of households which were unsupported by objective analysis.

Conclusion

12. I therefore find that, by refusing the planning application based on the first reason for refusal, and by not presenting full and detailed evidence to support its case at appeal, the Council has relied upon a reason for refusal which does not stand up to scrutiny on the planning merits of the case. This has caused the applicant avoidable delay by having to go through the appeal process.
13. This has comprised unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance. An award of costs to cover the expenses incurred by the applicant as a result of having to contest the Council's first reason for refusal is therefore justified.

Costs Order

14. 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 Portsmouth City Council shall pay to S Chibber the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred as a result of contesting the Council's first reason for refusal.

15. The applicant is now invited to submit to Portsmouth City 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

S Leonard

INSPECTOR