



Costs Decision

Site visit made on 22 October 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2025

**Costs application in relation to Appeal Ref: APP/L3815/W/25/3367153
Unit 4A Premier Business Park, Birdham Road, Appledram, Chichester, West
Sussex PO20 7BU**

- 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 11-55 Ltd for a full award of costs against Chichester District Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use of existing business premises from Use Class E(a) to Use Class E(d) where there is a restrictive condition on an historic change of use permission.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant contends that the Council (firstly) misrepresented planning condition 2 of planning permission Ref BI/07/03950/COU, generating a false reason for refusal of the planning application and (secondly) did not, during the planning application process, disclose that the absence of a sequential test would later become a reason for refusal, preventing the matter from being addressed at that time. In both cases, it is contended that the applicant was thereby put to unnecessary expense in pursuing the appeal.
4. On the first point; Permission Ref BI/07/03950/COU was for "Change of use to part sale and display of water related leisure products and part use as workshops for the servicing, fitting out and storage of marine related products". Planning condition 2 restricts the appeal site to the display and sale of water related leisure products with ancillary offices and store.
5. The description of development and the restrictive condition were reproduced in full in the Council planning reports. Whilst the word 'marine' is not found in condition 2, I see no reason why, for the purpose of the application, the effect of that condition could not fairly be summarised by use of it, or why it should be considered misleading to do so given the precise wording of the condition was clear.
6. In any event, I have found that the Council misapplied Local Plan Policy E2 to the proposals in that the requirement for evidence of marketing arises only if an employment use is to be replaced with a non-employment one, and not when one

form of employment is replaced with another. The use of the word 'marine' is not relevant to this misapplication; the Council would have been no less in error had it described the existing use and the effect of the condition in some other way.

7. Whilst the Council misapplied Policy E2, I have nevertheless found the appeal scheme to conflict with that same policy for other reasons. It is not apparent therefore that, had the Council applied the policy correctly, approval would have resulted and the appeal be avoided.
8. Regarding the second point I recognise that, despite engaging in discussion on other aspects of the scheme ahead of issuing its decision, the Council did not directly indicate the need for a sequential test. Whilst it may be helpful in many instances and, indeed, assist in avoiding appeals, it is not part of the planning application process that a Local Authority must disclose in advance its anticipated reasons for refusal and allow them to be addressed.
9. Ultimately, it is for an applicant for planning permission to provide such information as is required to satisfy planning policies. The circumstances under which a sequential test are required are set out in Local Plan Policies NE10, E2, and E5, and I see no reason why such a need could not have been anticipated by the applicant in advance, particularly once the Council had confirmed that these policies would carry weight.

Conclusion

10. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs against the Council is not justified.

A Knight

INSPECTOR