Costs Decision

Site visit made on 10 January 2026

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2026

Costs application in relation to Appeal Ref: APP/A3655/W/25/3371062
Houseboat Morpheus, Hermitage Bridge, Hermitage Road, St Johns, Woking, GU21 8XP

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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 submits that the Council has acted unreasonably by failing to permit a scheme[1] in 2025 on land adjacent to 'Morpheus', that included an outbuilding known as Shed 1. It is argued by the applicant that the Council not only failed to take in relevant mitigating factors, but also that it did not adequately take into account the relevance of Sections 171b (1) and (3) of the Town and Country Planning Act 1990 (TCPA) and relevant case law[2] in relation to a lapsed temporary planning permission[3] at Hermitage Road. The appellant forwards that Shed 1 benefitted from planning breach enforcement immunity from December 2019, and therefore the subsequent and separate scheme in 2025 for three outbuildings at 'Morpheus', including Shed 1, should have been permitted by the Council.

4. In a rebuttal, while acknowledging the 2014 temporary planning permission and that the application site has been associated with houseboats over a number of years, the Council forward that the separate 2025 scheme for 'Morpheus' differed to the temporary planning permission in that it included not only Shed 1 but also two other ancillary outbuildings that were constructed on the site in 2023 and 2024 respectively. Moreover, the Council argue that while the temporary permission for Shed 1 lapsed in 2019, planning enforcement action related to that scheme is still possible within statutory time limits until December 2029. Furthermore, even if the appellant's planning breach had been identified before September 2023, a certificate of lawfulness for Shed 1 would have been refused.

5. Consequently, while mindful of statutory enforcement time limits, the Council say that despite taking in relevant mitigating factors for the scheme, the 3-outbuilding development at 'Morpheus' was refused for substantiated reasons related to harm to the Green Belt, the Basingstoke Canal Conservation Area and nearby trees.

[1] APP/A3655/W/25/3371062
[2] Somak Travel Ltd v Secretary of State (1987) & JPL 630 & Mansell v Tonbridge & Malling BC (2017) EWCA Civ 1314
[3] PLAN/2014/1190

6. In further support of its case, the Council record that a houseboat scheme on the neighbouring site at 'Cernunnos' was refused for similar reasons under a more recent application[4] and dismissed at appeal[5].

7. These were activities that in the main occurred prior to the appeal being submitted. The PPG is clear that the primary focus of the costs regime in planning appeals is centred on unreasonable behaviour occurring during the appeals process. That said, I acknowledge the evidence submitted by both parties.

8. Indeed, while any future enforcement action is a matter for the parties alone, I cannot concur that the Council failed to adequately take into account the TCPA or relevant case law as time-based immunity for the 2014 scheme had yet to take effect at the time of the 2025 application.

9. In addition, the subsequent 3 outbuilding scheme was thoroughly assessed by the Council against its relevant development plan policies and the National Planning Policy Framework and refused against valid and substantiated reasons which are clearly set out in the Council's Officer Report.

10. Therefore, while the complexity and breadth of the Council's policies and procedures may be frustrating for the applicant, as the Council was carrying out the normal and correct activities associated with a retrospective application in this case; determining it based on existing circumstances, I cannot agree that the Council has acted unreasonably in this case.

11. Consequently, there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

12. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

J E Jolly

INSPECTOR

[4] PLAN/2025/0199
[5] APP/A3655/W/25/3367606