
Costs Decisions

Site visit made on 27 January 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Costs application in relation to Appeal Ref: APP/L2250/W/19/3240192 Baptist Chapel, North Street, New Romney TN28 8DR

- 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 Folkestone and Hythe District Council for a full award of costs against Mr Paul Stacey.
 - The appeal was against the refusal of planning permission for the change of use from Baptist chapel (D1) to single residential dwelling (C3), together with insertion of rooflights.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG also advises that the behaviour of parties during the time of the planning application can be taken into account in deciding whether unreasonable behaviour has occurred, although the costs themselves can only be awarded in relation to unnecessary or wasted expense at the appeal.
3. The claim for costs is on the basis that the appellant has failed to defend themselves against the grounds for refusal and that the appeal was submitted unnecessarily given the approval of the subsequent application.
4. The appellant has not sought to defend their case against the reasons for refusal and they have openly stated that the appeal has been made solely in order to seek costs. The appeal scheme is different from the scheme subsequently approved and, having been taken to appeal, should have been adequately defended as such. The appeal was made on 30 October 2019 after the subsequent application was permitted on 31 July 2019, so the appellant was aware from the outset of the appeal process of the subsequent approval. By not attempting to defend the scheme, the appellant has acted unreasonably.
5. The Council has sought the costs of defending the appeal, specifically in preparing an appeal statement. I agree that these costs represent unnecessary and wasted expense in relation to the appeal process.

Conclusion

6. I therefore find that unreasonable behaviour by the appellant resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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 Mr Paul Stacey shall pay to Folkestone and Hythe District Council, 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.
8. The Applicant is now invited to submit to Mr Paul Stacey, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

O S Woodward

INSPECTOR