
Costs Decision

Site visit made on 8 March 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 March 2022

Costs application in relation to Appeal Ref: APP/L2250/W/21/3276358 15 Guildhall Street, Folkestone CT20 1EA

- 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 Toby Spanier for a full award of costs against Folkestone and Hythe District Council.
 - The appeal was against the refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 3, Class M of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for change of use of part of retail unit to residential.
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Decision

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

Reasons

2. 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 has claimed that the Council's reason for refusal was 'wholly flawed and based on inaccurate assertions' and has therefore sought an award of appeal costs.
4. I have found that the Council's reason for refusal was justified. The Council's reasoning in its officer report lacked detail, but the onus was on the applicant to submit the necessary information with the application to demonstrate adequate natural light would be provided to all habitable rooms.
5. The information submitted as part of the application failed to do this and it was only in the applicant's appeal statement that a photograph of the glass block window on the rear elevation at upper-ground floor level was provided to show the size of that window which allowed a judgement to be made as to whether it would provide adequate natural light to the proposed bedroom/living room.
6. The Council's appeal submissions explained that they considered the room annotated 'kitchen' at lower-ground floor level would constitute a habitable room and no details were provided as part of the application to demonstrate this room would receive adequate natural light. Although they did not refer to the definition provided at Paragraph X of Part 3 of the GPDO, I have found that this room would be a habitable room and would not receive adequate natural light.

7. The Council's reason for refusal was not therefore flawed or based on inaccurate assertions and the Council did not behave unreasonably in refusing the application.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, an award of costs is not justified.

L Douglas

INSPECTOR