



Costs Decision

Site visit made on 18 March 2025

by **SJ Desai BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 April 2025

Costs application in relation to Appeal Ref: APP/L2250/W/3352616 71 Dover Road, Folkestone, Kent CT20 1JZ

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Meir Monderer for a full award of costs against Folkestone & Hythe District Council.
 - The appeal was against the refusal of planning permission for “conversion from two self-contained flats into 3 x self-contained flats. Provision of cycle and refuse storage”.
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Decision

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

Reasons

2. 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 PPG provides that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications. Examples of this include where a local planning authority does not determine similar cases in a consistent manner.
4. The Council has not acted inconsistently in refusing the proposed development due to concerns in respect of a lack of compliance with the development plan requirements for external amenity, refuse bin and bicycle storage facilities. This is because it did have these concerns when considering previous schemes on the site for similar development¹. Furthermore, I have also found conflict with the development plan in these matters.
5. The applicant highlights that the appeal proposal would satisfy minimum internal space standards, addressing a reason for refusal of a previous scheme on the site. The Council do not disagree, and this is not a reason for refusal listed in the decision notice.
6. Having considered the tests of paragraph 57 of the Framework and advice in the Planning Practice Guidance: Use of planning conditions, I agree with the Council that conditions would not provide sufficient certainty, in this instance, that an area or suitable alternative provision is available that would be sufficient to

¹ 23/1453/FH and 24/0082/FH

accommodate the specific refuse bin or bicycle storage requirements in a functional, acceptable way.

7. I do not have the full details of the circumstances that led to all of the examples of similar development put to me being accepted. On the evidence presented I therefore cannot be certain that they represent a direct parallel to the appeal proposal.
8. Notwithstanding, the Council's evidence sets out that application reference Y17/1477/SH was determined under a previous development plan and is therefore not comparable to the appeal proposal. I find no reason to disagree.
9. The Council's evidence indicates that the assessment undertaken for application reference 21/1800/FH may not have been as comprehensive as that for the appeal proposal, and I can see how this would be frustrating for the appellant. However, each case must be determined on its own merits and a lack of suitable external amenity and refuse bin storage have been consistent reasons for refusal as part of the previous schemes at the appeal site. As a result, I cannot agree that the Council has acted unreasonably.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

SJ DESAI

INSPECTOR