



Costs Decision

Site visit made on 30 March 2026

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14th April 2026

Costs application in relation to Appeal Ref: APP/L2250/X/24/3340533

Site adjacent to Radnor Cliff Road containing properties 23-36 Radnor Cliff, Folkestone CT20 2JL; Grid ref Easting (x): 621367, Grid ref Northing (y): 135226

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Ms Jane Davies for a full award of costs against Folkestone and Hythe District Council.
 - The appeal was against the refusal of a certificate of lawful use or development described in the application form as '14 Yachtman houses and storage were commenced, after a Planning Approval was granted in 1971, the existing use is therefore residential (C3)'.
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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. It is claimed by the applicant that the Council incorrectly considered whether matters relevant to the application had been 'fully demonstrated', rather than demonstrated as likely, on the balance of probabilities. It is further claimed that the Council has not explained why it found the applicant's evidence ambiguous, and that the Council did not consider or did not accept all of the evidence, without providing its own evidence to dispute the validity of the applicant's.
4. The Council's officer report is a lengthy document, stretching to 10 pages. Within the report there are multiple references to the applicant's case not being demonstrated on the balance of probabilities. It refers to a lack of evidence to show the plans provided by the applicant were approved by any planning permission, on the balance of probabilities. However, in the penultimate paragraph of the conclusion to the report, it is stated '...none of the information provided has fully demonstrated that those works were for the houses subject of this Lawful Development Certificate...'
5. There is no reference in the Council's officer report to the minutes dated 7 March 1973 (the 1973 minutes), which formed part of the applicant's evidence and the Council has not provided any evidence of its own to contradict the applicant's claims in the appeal. Notwithstanding the penultimate paragraph of the conclusion to the officer report, from reading that document as a whole, it is clear that the correct test was applied by the Council to the evidence. Moreover, the

1973 minutes would have unlikely affected the Council's decision as they merely show the Committee resolved to grant planning permission subject to conditions and do not identify any approved plans. The 1973 minutes were not determinative in my appeal decision.

6. The officer report describes the applicant's 'lease drawing and timeline documents' as ambiguous. It is unclear which documents the Council is referring to by this, but the context of that comment is the lack of information to support the applicant's timeline of events. Furthermore, it was not necessary for the Council to provide contradictory evidence to justify its case when the applicant's evidence was not sufficiently precise and unambiguous to substantiate their claims on the balance of probabilities, as mentioned within the officer report.
7. Overall, the Council considered whether the development claimed to be lawful was lawful, on the available evidence, on the balance of probabilities, and found the same fundamental flaw as I did in my appeal decision in respect of the applicant's case. Considering the Council's officer report as a whole, on the information provided, I see no evidence of unreasonable behaviour on behalf of the Council.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

L Douglas

INSPECTOR