



Costs Decisions

Site visit made on 12 October 2020

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18th November 2020

Costs applications in relation to Appeal Ref: APP/U5360/C/20/3245283 108 Dalston Lane, Hackney, London, E8 1NG

- The applications are made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - Application A is made by the Council of the London Borough of Hackney for a partial award of costs against DIP Systems (UK) Limited.
 - Application B is made by DIP Systems (UK) Limited for a full and partial award of costs against the Council of the London Borough of Hackney.
 - The appeal was against an enforcement notice alleging the installation of UPVC windows at the front and rear elevations of the property.
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Decisions

Application A

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

Application B

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

Reasons

3. Planning Policy Guidance advises that, irrespective of the outcome of the appeal, costs can only be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Application A

4. The Council states that the appellant had no reasonable prospect of success on the ground (c) appeal and it was therefore unreasonable to appeal on that basis. The replacement of windows with UPVC will not always constitute development as it will be a matter of fact and degree as to whether the works materially affects the external appearance of the building in question. It was therefore not unreasonable of the appellant to pursue this ground of appeal, notwithstanding that I found the works to be development in this instance.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Application B

6. The appellant's case in their application for a full award of costs is that the Council had failed to consider whether the windows materially affected the external appearance of the building and therefore directly caused the appellant's wasted costs in bringing the appeal. I have found that the replacement windows do materially affect the external appearance of the building and the appeal on ground (c) was therefore unsuccessful and the appellants were not therefore caused unnecessary or wasted expense as a result of the Council's behaviour.
7. The appellant has also applied for a partial award of costs on the basis that the Council has unreasonably submitted its own costs application which has necessitated a response and caused unnecessary expense. Although I have not found the Council's costs application to be successful, I do not consider that it was made unreasonably and that, in any event, any expense that resulted was de minimis.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Zoë Franks

INSPECTOR