



Costs Decision

Hearing held on 26 September 2023

Site visit made on 26 September 2023

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2023

Costs application in relation to Appeal Ref: APP/U5360/C/22/3302746 74 Linthorpe Road, Hackney, London N16 5RF

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Pinchas Deutsch for a partial award of costs against the Council of the London Borough of Hackney.
 - The appeal was against an enforcement notice alleging operational development consisting of the erection of an elevated walkway, a part single, part two storey rear extension, an outrigger roof extension and alterations to the front elevation.
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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 (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 is clear that there is a right of appeal, and this is expressly reiterated in respect of enforcement notices. It continues by saying that the parties in appeals are normally expected to meet their own expenses. The PPG says costs may be awarded where a party has behaved unreasonably and it says unreasonable behaviour may be either procedural, relating to the process, or substantive, relating to the issues and examples are given.
4. The application was made orally at the Hearing, on the basis that since the Council acknowledged that the dormer had not been enlarged, it was unreasonable for them to have pursued this position up until the event.
5. It is not clear why the Council believed that the dormer had been enlarged. Although unreasonable to maintain that position until the event, I am not satisfied that there was any wasted expense incurred, since the applicant had already made a case on ground (b) in respect of the bay window, and the additional work in respect of the dormer simply involved stating that the dormer had not been enlarged.
6. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Felicity Thompson

INSPECTOR