

Costs Decision

Site visit made on 28 February 2024

by Diane Lewis BA(Hons) MCD MA LLM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2024

Costs application in relation to Appeal Ref: APP/U5360/C/22/3307156 6 Stoke Newington Common, Hackney, London N16 7ET

- 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 the Council of the London Borough of Hackney for a full award of costs against Mr David Akigbogan.
 - The appeal was against an enforcement notice alleging Without planning permission, operational development consisting of the construction of two side extensions at ground floor level and the erection of a timber boundary fence more than 1 metre in height.
-

DECISION

1. The application for an award of costs is allowed in the terms set out below.

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 appeal proceeded on the grounds set out in section 174(2)(a), (b), (c), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended. At the outset the appellant presented no case in respect of the boundary fence and acknowledged it should be removed. The costs application is directed at the appeals made on grounds (b), (c) and (d), which the Council considered had no reasonable prospect of success.
4. The appellant submitted several pieces of evidence to support the appeal on ground (b). The appellant did not dispute that building works, as indicated on the photographs attached to the notice, had taken place. Having assessed all the evidence submitted by both parties I concluded the works were not alterations to existing extensions. Even though I disagreed with the appellant's case, my conclusion was based on a matter of fact and degree judgement and the appellant did not act unreasonably in pursuing a ground (b) appeal.
5. The appeal on ground (c) had no reasonable prospect of success because the appellant accepted that the works, even as alterations, were unauthorised and required planning permission. The appeal on ground (d) also had no reasonable prospect of success because the appellant accepted the works were carried out around May 2020, within the four year time limit for taking enforcement action.
6. The Council had to consider and submit its case in response to the ground (c) and (d) appeals for the extensions and incurred unnecessary expense in doing so.

7. In conclusion, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the appeals on grounds (c) and (d). A partial award of costs is justified, not a full award of costs initially sought by the Council.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr David Akigbogan shall pay to the Council of the London Borough of Hackney the costs of the appeal proceedings, described in the heading of this decision, limited to those costs incurred in responding to the appeal on ground (c) and the appeal on ground (d), such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr David Akigbogan, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Diane Lewis

INSPECTOR