



**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref: 13423/2013

In the matter of an application for Judicial Review

The Queen on the application of
PERRY
versus
London Borough of Hackney

NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)

Following consideration of the documents lodged by the Claimant [and the Acknowledgement(s) of service filed by the Defendant and / or Interested Party]

Order by the Honourable Mr Justice Collins

Permission is hereby granted

Observations:

1. There can be no doubt that the decision that the development was not EIA development was defective in that it did not give any reasons. Furthermore, since the decision states no more than it resulted from the letter of request, I do not think that the reasons set out in that letter can be incorporated. It must be shown that the council made its decision for its own reasons which may or may not have accepted all those set out in the letter.
2. The previous refusal was based on substantial harm and so indicated that it should then have been regarded as EIA development. The present development persuaded EH to downgrade but not to remove its concerns. While I recognise the force of the matters raised particularly in the IP's grounds, it seems to me that Ground 1 is for the reasons fully set out in the claim form arguable.
3. Clearly it was proper to have regard to the NPPF paragraphs, but 137 does require positive enhancement or preservation. It is far from clear that this was fully considered. Thus I think Ground 2 is arguable.
4. While I have no doubt that commercial confidentiality can properly mean that full details need not be disclosed publicly, obviously the councillors making the decision should have seen the report and consideration should be given to whether information can be disclosed. 17% seems very low and the reasons given are less than informative.
5. Ground 1 is, as accepted, an Aarhus claim.

Case management directions

- The Defendant and any other person served with the claim form who wishes to contest the claim or support it on additional grounds must file and serve detailed grounds for contesting the claim or supporting it on additional grounds and any written evidence, within 35 days of service of this order.
- Any reply and any application by the Claimant to lodge further evidence must be lodged within 21 days of the service of detailed grounds for contesting the claim.
- The Claimant must file and serve a trial bundle not less than [4 weeks] before the date of the hearing of the judicial review.
- The Claimant must file and serve a skeleton argument not less than [21] days before the date of the hearing of the judicial review.
- The Defendant and any interested party must file and serve a skeleton argument not less than [14] days before the date of the hearing of the judicial review.
- The claimant must file an agreed bundle of authorities, not less than [3 days] before the date of the hearing of the judicial review.

Signed: Sir Andrew Collins

17 DEC 2013