



Costs Decision

Site visit made on 7 November 2016

by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2016

Costs application in relation to Appeals refs: APP/U5360/C/16/3145399 and 3145400

Land at 79 Darenth Road, London N16 6ES

- 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 partial award of costs against Mr S Cik and Mrs Deborah Cik.
 - The appeal was against an enforcement notice alleging the erection of a rear dormer extension on the top floor level and a rear dormer extension at second floor level and the installation of a water tank on the roof of the property.
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Decision

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

Reasons

2. Mr Cik's pursuance of ground (a) follows a recent s.78 appeal decision for the same development where an Inspector decided that the proposal was unacceptable. His personal circumstances have materially changed since the previous decision. Other matters such as the need for additional floor space, lack of alternative accommodation and human rights have been advanced in support. There is no evidence to suggest these matters were before the previous Inspector in any depth.
3. Additionally, another change in circumstances is the issue of the enforcement notice, which the appellant appealed to protect his interest. In so doing, it appears to me he had been professionally advised to pursue a ground (a) appeal given the change in his personal circumstances. He thought that he had a reasonable prospect of success. I have disagreed with the merits of the case; nonetheless, Mr Cik submitted sufficient evidence to substantiate all of his ground (a) appeal.
4. The Council refers to the previous Inspector's assessment as part of its case. While I do not criticise that approach, it seems to me that the former has not fully grappled with the ground (a) arguments. There appears to be limited analysis of personal circumstances, best interests of children, implication for human rights, alternative or fall-back position.
5. Even if Mr Cik pursuance of ground (a) is deemed unreasonable, the quantum of the Council's rebuttal does not suggest to me that resulted in unnecessary or wasted expense as described in the Planning Practice Guidance.
6. I therefore conclude that a partial award of costs is unjustified in this case.

A U Ghafoor

Inspector
