



Costs Decision

by Ken McEntee

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 19 July 2017

Appeal ref: APP/K0235/L/16/120082: Application for costs

- The costs application is made under Regulation 121 of the Community Infrastructure Levy Regulations 2010.
- The application is made by [REDACTED] against Bedford Borough Council.
- The appeal was made under section 218 of the Planning Act 2008 and on Regulation 117(1)(a),(b) and (c) and Regulation 118 of the CIL Regulations.

Summary of decision: The application fails and no award of costs is being made.

Reasons for the decision

1. The appellant is claiming a full award of costs against the Council as he contends they acted unreasonably by serving a Demand Notice, including surcharges, while a decision was pending on his request to pay the CIL by instalments. He argues that this caused him to incur wasted expense in submitting an unnecessary appeal. As noted in my appeal decision, the Council have not explained why they chose to demand a late payment surcharge plus interest on the same day as issuing their decision on the appellant's request to pay the CIL by instalments, thus preventing the appellant from having the opportunity to pay the CIL and avoiding such surcharges. Had the appellant been given such an opportunity, it is reasonable to conclude it would have prevented the need for an appeal on ground 117(1)(a) in relation to this issue, given that the appellant paid in full some two weeks later.
2. Nevertheless, as explained in paragraph 6 of my appeal decision letter, while it may seem perverse to choose to do so, the Council were entitled to use their discretionary powers to impose a surcharge and interest for late payment of the CIL. In these circumstances I cannot conclude that the Council acted unreasonably.

Conclusions

3. The overall conclusion reached is that I cannot be satisfied on the evidence before me that the Council acted unreasonably in the appeal process.

Formal decision

4. For the reasons given above, I do not conclude that the Council acted unreasonably, causing the appellant to incur wasted or unnecessary expense as a result in the appeal process. No award of costs is therefore justified in the particular circumstances.
5. A copy of this letter has been sent to the Council.

K McEntee