



Costs Decision

by Ken McEntee

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

Decision date: 8 August 2017

Appeal ref: APP/K0235/L/17/1200101: Application for costs

- The costs application is made under Regulation 121 of the Community Infrastructure Levy Regulations 2010.
- The application is made by Bedford Borough Council against the appellant, [REDACTED]
- The appeal was made under section 218 of the Planning Act 2008 and on Regulation 117(1)(a) 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 Council are claiming a full award of costs as they claim the appellant acted unreasonably by submitting an appeal that stood no prospect of succeeding as the breaches which led to the surcharges occurred. However, I take the view that the appellant was entitled to exercise his right of appeal, which was in no way frivolous or irresponsible. He did not agree with the Council that the alleged breaches had occurred as he was convinced that 'demolition' did not constitute development, which is not an uncommon misconception, and he argued his case. While his interpretation was incorrect, that does not mean it was unreasonable. Therefore, I do not consider an award of costs is justified.

Formal decision

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

K McEntee