



Costs Decision

by **Ken McEntee**

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

Decision date: 1 November 2017

Appeal ref: APP/Z2830/L/17/1200110: Application for costs

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- The costs application is made under Regulation 121 of the Community Infrastructure Levy Regulations 2010.
- The application is made by ██████████ against South Northamptonshire Council.
- The appeal was made under section 218 of the Planning Act 2008 and on 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 on the basis of the appeal being upheld as they contend the whole appeal process will have been unnecessary. I should point out that costs are not awarded simply on the basis on whether or not an appeal is successful. It has to be demonstrated that the other party has behaved unreasonably. Although in this case I have allowed the appeal on the ground made, the appellant's appeal was focussed entirely on his belief that the development was unlawful and consequently a Demand Notice should not have been issued at the outset, rather than based on the accuracy of the deemed commencement date stated in the notice. In these circumstances, while the Council accept that they made an error in determining the deemed commencement date, I am not satisfied that this caused the appellant to submit an unnecessary appeal. Therefore, I cannot conclude on the evidence before me that the Council acted unreasonably.

Formal decision

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

K McEntee