



## Costs Decision

by **Ken McEntee**

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

Decision date: 28 March 2019

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### Appeal ref: APP/W0340/L/18/1200222: 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 West Berkshire District Council.
- The appeal was made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) and (c) of the CIL Regulations.

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

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### Reasons for the decision

1. The application for costs has been considered by reference to the Planning Practice Guidance on awards of costs (as published on the Gov.uk website), the appeal papers, the correspondence on costs and all the relevant circumstances.
2. It appears that the basis of appellant's application for costs is that the Council acted unreasonably by failing to respond to various e-mails sent by the appellant's agent. The agent argues that had they done so the matter could have been resolved without the need for surcharges and an appeal. However, as I have explained in the appeal decision, while this was unhelpful behaviour from the Council for which they can be criticised, I am not satisfied it caused the appellant to incur any wasted or unnecessary expense in submitting the appeal or that it would have prevented the surcharges being imposed. The correspondence referred to is from June and July 2018, which is long after the invalid Commencement Notice was submitted in error to the Building Control Department. Therefore, even if the Council had responded to the correspondence, it could not have prevented the breach from occurring and the subsequent appeal being submitted. An award of costs is therefore not justified.
3. While I have concluded that the Council's conduct in failing to respond to certain e-mails from the appellant's agent did not the cause the appellant to incur wasted or unnecessary expense in the appeal process, it is open to the appellant to submit a complaint to the Council through their established complaints procedures in the context of local government accountability.

### **Formal decision**

4. For these reasons, no award of costs, on grounds of “unreasonable” behaviour resulting in wasted or unnecessary expense, is justified in the particular circumstances.
5. A copy of this letter has been sent to West Berkshire District Council.

*K McEntee*