



Costs Decision

by **Ken McEntee**

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

Decision date: 14 August 2019

Appeal ref: APP/E5900/L/19/1200265: 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 the London Borough of Tower Hamlets.
- The appeal was made under section 218 of the Planning Act 2008 and under Regulation 117(1)(b) and Regulation 118 of the CIL Regulations.

Summary of decision: The application succeeds and a full award of costs is being made.

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 under "Appeals"), my appeal decision, the appeal papers, the correspondence on costs and all the relevant circumstances. Paragraph 048 of the guidance is considered to be particularly relevant to this case by analogy.
2. It does not automatically follow that an award of costs to an appellant is justified as a result of a successful appeal. However, in this case, it is reasonable to conclude that had Council served a Liability Notice at the correct time, the appellants would have had the opportunity to submit an Assumption of Liability Notice and a Commencement Notice before starting works on the chargeable development, thus avoiding the surcharges being imposed and the subsequent appeal being submitted. Therefore, I conclude that the Council's failure to serve a timely Liability Notice in accordance with Regulation 65(3)(a) amounts to unreasonable behaviour, the result of which caused the appellants to incur wasted expense in having to submit an unnecessary appeal. An award of costs will therefore be made.

Formal Decision

3. For the reasons given above, I conclude that the Council acted unreasonably, causing the appellants to incur wasted or unnecessary expense in the appeal process. A full award of costs is therefore justified in the particular circumstances.

COSTS ORDER

4. Accordingly, in exercise of my powers under Regulation 121 of the CIL Regulations 2010 (as amended), and all other powers enabling me in that behalf, **I HEREBY ORDER** that the London Borough of Tower Hamlets shall pay to Remy's Limited their costs of the CIL appeal proceedings before the Secretary of State; such costs to be assessed in the Senior Courts Costs Office if not agreed.
5. You are now invited to submit to [REDACTED], Infrastructure Planning Manager at the London Borough of Tower Hamlets, details of those costs with a view to reach agreement on the amount. A copy of this letter has been sent to him.

K McEntee