



Costs Decision

by Ken McEntee

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

Decision date: 20 August 2019

Appeal ref: APP/P3610/L/19/1200266: 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 Epsom and Ewell Borough Council.
- The appeal was made under section 218 of the Planning Act 2008 and under 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 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.
2. The basis of the application for costs is that the Council acted unreasonably, causing the appellants to incur wasted expense in submitting an unnecessary appeal. The appellant is unhappy with the way the Council conducted themselves in the matter of CIL and feel they should have engaged more with the appellant to resolve the matter, rather than refer him to his right of appeal. However, from the evidence provided it seems to me that the Council made clear in their correspondence of 21 February 2019 what they considered the situation to be. The fact that it differed from the appellant's view does not make it unreasonable. It was also reasonable and correct for the Council to advise the appellant of his right of appeal if he believed a mistake had been made. The appellant subsequently exercised that right of appeal.
3. I note the appellant's point that the Council initially advised by e-mail of 10 February 2015 in relation to another planning permission on a different site, that demolition did not constitute commencement of development, yet later changed their stance. In that case, they also exercised their discretion and decided not to impose a surcharge at that time. While I accept that the Council's actions would appear to come across as inconsistent, I can only

consider their actions in relation to this appeal. My appeal decision confirms that I am satisfied the Council were entitled to take the stance they did, and therefore it was not unreasonable.

4. On the evidence before me, I am not satisfied the Council has acted unreasonably, causing the appellant to incur wasted expense in submitting an unnecessary appeal.
5. Nevertheless, should the appellant be unhappy with the Council's conduct in this matter or their adopted procedures, they may wish to make a complaint through the Council's established complaints process in accordance with local government accountability.

Formal Decision

6. For the reasons given above, I conclude that the Council did not act 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.
7. A copy of this letter has been sent to Epsom and Ewell Borough Council.

K McEntee