



## Costs Decision

by Ken McEntee

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

Decision date: 10 October 2019

---

### Appeal ref: APP/G5750/L/19/1200284: Application for costs

- The costs application is made under Regulation 121 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The application is made by [REDACTED] against the London Borough of Newham.
- The appeal was made under section 218 of the Planning Act 2008 and under Regulations 117(1)(a) and (b) of the CIL Regulations.

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

---

### Background to the case

1. The appeal was made against the surcharges of [REDACTED] for the alleged failure to assume liability and [REDACTED] for the alleged failure to submit a commencement Notice. However, before the appeal could progress to a decision, the Collecting Authority (Council) withdrew the surcharges.

### Reasons for the decision

2. 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"), the appeal papers, the correspondence on costs and all the relevant circumstances.
3. The main basis of the application for costs appears to be that the Council should have withdrawn the surcharges earlier. The Council decided to withdraw the surcharges when they realised they had failed to issue a revised Liability Notice to the appellant when he became the new owner of the appeal property. It was within their powers to continue to pursue the surcharges by way of issuing a revised Demand Notice, but they decided to take a "pragmatic approach". However, the original Liability Notice of 12 April 2016 that was served on [REDACTED] was registered as a local land charge at the time, which the Council are obliged to do under the local land charges Act 1975. Such a charge binds the land. Any purchaser or owner of the property are deemed to have full knowledge of any burden attached to the land by virtue of the registration. The wording of Regulation 117(1)(b) is not personalised for this reason. Therefore,

the Council were not required to issue a revised Liability Notice on the appellant as the new owner.

4. As the appeal has been withdrawn, it is not before me to determine whether the surcharges were correct to be imposed at the outset. However, I can conclude that it was not necessary for the Council to withdraw them for the reason they did. Their actions in doing so, which essentially was a gesture of goodwill, effectively saved the appellant from incurring extra expense, rather than causing it.
5. In these circumstances, I am not satisfied the Council has acted unreasonably, causing the appellant to incur wasted or unnecessary expense.
6. If the appellant is 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**

7. 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.
8. A copy of this letter has been sent to the London Borough of Newham.

*K McEntee*