

possible for the appellant to have informed the Council of the intended date of commencement of the chargeable development by way of a valid CN.

4. Therefore, although the Council argue that there is no requirement within the CIL Regulations to proactively contact developers requesting information, I take the view that in this case it was reasonable to expect the Council to have done so in view of the fact they did not issue a prompt LN. They contend that they did not receive a response to the covering letter that accompanied the Liability Notice until 12 August 2019. However, they do not state that the covering letter requested the appellant to provide the date of commencement of the chargeable development. Had they made such a request, it is reasonable to conclude that the appellant would have provided the necessary information and the Council would have accepted it as they have done on appeal. Consequently, this would have prevented the appellant from incurring expense in submitting an unnecessary appeal. An award of costs is therefore considered justified.
5. The appellant requests the award of costs to include expense incurred on all matters arising from the service of the Liability Notice. However, an award of costs can only be made in relation to those costs incurred in the appeal proceedings. I have no power to award costs for expense incurred outside of the appeal process.

Formal Decision

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

COSTS ORDER

7. 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 Richmond upon Thames shall pay to [REDACTED] his 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.
8. You are now invited to submit to [REDACTED] [REDACTED] the London Borough of Richmond upon Thames, details of those costs with a view to reaching an agreement on the amount. A copy of this letter has been sent to him.

K McEntee