Planning Inspectorate

Costs Decision

Site Visit held 27 October 2025

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2026

Costs applications in relation to Appeal refs. APP/G1630/L/24/3354481 (Appeal A) and APP/G1630/L/24/3362637 (Appeal B)

[redacted]

- The applications are made under regulation 121 of the Community Infrastructure Levy Regulations 2010 ("the 2010 Regs").
- Application A is made in relation to Appeal A and Application B is made in relation to Appeal B made by [redacted] for a full award of costs against Tewkesbury Borough Council ("the CA").
- The appeals were in relation to community infrastructure levy ("CIL") demand and surcharge notices issued in connection with planning permissions [redacted] and [redacted] for the variation of condition 2 (drawing schedule) on planning permissions [redacted] and [redacted] respectively, [redacted]

Decisions

Application A

1. The application for an award of costs is allowed.

Application B

2. The application for an award of costs is allowed.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

Application A

4. It is the applicant's contention that it is self-evident that the grant of planning permission to which the Demand Notice ("DN") relates, [redacted], had not been commenced. While the CA was requested to withdraw the DN and Surcharge Notice ("SN"), they did not and Appeal A had to be made. The applicant has therefore been put to the unnecessary and wasted expense of Appeal A.

5. The respondent applied regulation 7(5)(a) of the Community Infrastructure Levy Regulations 2010 (as amended) ("the 2010 Regs") to the planning permission granted by [redacted]. Under that regulation, chargeable development granted planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) is deemed to have commenced on the day planning permission is granted.

6. During the course of Appeal A, the respondent conceded that the planning permission granted by [redacted] was in fact made under section 73 of the 1990 Act. Furthermore, I found that the operative development granted by [redacted] to which [redacted] relates was unimplementable as it had been superseded by the commencement of planning permission [redacted].

7. Had the CA not misdirected itself with regards to the application of section 73A, the DN and SN the subject of Appeal A would not have been issued, and Appeal A would not have been necessary.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated.

Application B

9. The applicant refers to a long history of correspondence with the CA relating to the invalidity of notices served relating to the development of the appeal site. The applicant contends that they have been put to unnecessary and wasted expense of making Appeal B as the CA has not issued a valid liability notice, the deemed commencement date is incorrectly calculated, and a surcharge notice was issued despite a valid commencement notice being submitted.

10. The respondent contends that a valid liability notice was served on the appropriate persons. Further, multiple commencement notices were submitted, the first was invalid and the second identified a commencement date after the CA had seen that the chargeable development had commenced.

11. The CA should be proficient at serving CIL notices in accordance with legislative requirements. While I appreciate there is a considerable amount of background correspondence within which the CA may have determined the applicant has an interest in the land, this did not absolve them of the statutory requirement to serve the LN on the named applicant of the planning application. As the LN was not served in accordance with regulation 65 of the 2010 Regs, the appeal against the imposition of the surcharge succeeded and the validity or otherwise of the commencement notices had no relevance.

12. While the CA visited the appeal site on 31 January 2025 and saw that development had commenced in respect of planning permission, they were told during their visit that commencement had occurred on 30 January 2025. Despite this, the DN states the deemed commencement date is 31 January 2025. The deemed commencement date was therefore incorrect.

13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated.

Application A and Application B Costs Orders

14. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tewksbury Borough Council shall pay to [redacted] the costs of Appeal A and Appeal B proceedings described in the heading of this decision limited to those costs incurred in respect of the regulation 117a, 117b, 117 c and 118 appeals; such costs to be assessed in the Senior Courts Costs Office if not agreed.

15. The Applicant is now invited to submit to Tewksbury Borough Council, to whom a copy of these decisions has been sent, details of those costs with a view to reaching agreement as to the amounts. In the event that the parties cannot agree on the amounts, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

M Madge

INSPECTOR