

Adjudicator's Reasons

By letter dated 1st February 2008, the Appellant made an application for costs in the sum of £176.80 following the appeal being allowed on 30th January 2008.

The Appellant says that the local authority were well aware of the flawed design of the junction (having ceased monitoring operations on 4th July 2007) at which the alleged contravention occurred, the inadequacy of the videotape evidence on which the local authority case rested which was pointed out to them by the Appellant in an email (a copy of which I have seen) dated 12th October .

The application was listed for hearing on the papers, and the local authority were issued with an invitation to respond to the application, which they have not done.

Having considered the evidence filed, and the arguments raised, I allow the application for costs. I do consider that the Appellant raised with the local authority the flawed nature of the junction and the evidence on which they relied, in good time for the local authority to consider the position and to avoid the hearing. The local authority failure to consider this on receipt of the Notice of Appeal or prior to the hearing, I consider to be wholly unreasonable. Particularly so in the light of the cessation of enforcement in mid 2007.

I am satisfied that this is a case in which I should make an order for costs, being aware that the Regulations provide that I shall not normally make an order for costs.

I therefore make an order for cost. I consider that the sum claimed fairly reflects the costs incurred by the Appellant, and which were directly caused by the local authority unreasonableness.

I therefore allow the application and direct that costs be paid by the local authority to the Appellant within 28 days.

Joanne Oxlade

Adjudicator appointed under Section 73(3) of the *Road Traffic Act 1991* acting in exercise of powers conferred by Paragraph 10(1) of Schedule 1 to the *London Local Authorities and Transport for London Act 2003*.