



**In the High Court of Justice
Queen's Bench Division
Planning Court**

CO Ref: CO/5878/2017

In the matter of an application for Judicial Review

The Queen on the application of AMANDA JANE HILL Claimant
versus DERBY CITY COUNCIL Defendant
and ENVIROFUSION LIMITED Interested Party

On the application by the Claimant to set aside the order of Lang J dated 31 January 2018 to award the Interested Party £2,500 towards the costs of their Acknowledgment of Service

Following consideration of the written submissions lodged by the Claimant and Interested Party

Order by the Honourable Mr Justice SUPPERSTONE

Application REFUSED.

For the avoidance of doubt the Claimant is to pay the Interested Party £2,500 towards the costs of their AOS.

Reasons:

1. The Claimant objects to the award of costs made in favour of the IP by Lang J on the basis that applying the *Bolton* principles, absent exceptional circumstances, a second set of costs for the IP should not be awarded.
2. I reject this submission. As Holgate J stated in *R (Luton BC) v Central Bedfordshire Council* [2014] EWHC 4325 (Admin) at para 221: "The general principle in *Bolton* against multiple sets of costs does not apply to costs of preparing an Acknowledgement of Service" (see *Mount Cook* at para 76). In the Court of Appeal ([2015] EWCA Civ 537) Sales LJ at paras 80 and 81 agreed with the judge that the award of costs to an IP for an AOS, following refusal of permission, was in accordance with "ordinary principles".
3. The decision in *Berkeley*, on which the Claimant relies, does not, in my view, assist the Claimant. In that case the House of Lords costs officers were concerned with a different regime under different circumstances.
4. Rightly (1) if, contrary to the Claimant's contention, Lang J did have discretion to award costs in favour of the IP, the Claimant does not take issue with the exercise of the discretion in the present case, and (2) having regard to the Aarhus cap no point is taken on the quantum awarded.

Signed *Michael Supperstone*

Date: 11 April 2018

Sent to the claimant, defendant and any interested party / the claimants, defendants, and any interested party's solicitors on (date): 12 APR 2018

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