



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 7 September 2023

Appeal ref: APP/V2635/L/23/3316972

Land at [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Kings Lynn & West Norfolk Borough Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- Planning permission was granted on 10 October 2022.
The description of the development is: [REDACTED]
[REDACTED].
- A Liability Notice was served on 19 January 2023.
- A Demand Notice was served on 19 January 2023.
- A revised Demand Notice was served on 23 March 2023.
- A further revised Demand Notice was served on 13 July 2023.
- The alleged breaches to which the surcharges relate are the failure to submit a Commencement Notice before starting works on the chargeable development, and the failure to pay the CIL within 30 days.
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The late payment surcharge is [REDACTED].

Summary of decision: The appeal is dismissed and the surcharges are upheld.

Reasons for the decision

1. An appeal under regulation 117(1)(a) is that the alleged breach which led to the surcharges did not occur. Although the appellants did submit a Commencement Notice on 6 October 2022, unfortunately it was not valid as it gave a commencement date of 8 October 2022, which was before planning permission [REDACTED] was granted, and it did not identify the Liability Notice in respect of the chargeable development as required by CIL Regulation 67(2)(b). Therefore, the Collecting Authority (Council) were entitled to impose a surcharge in accordance with Regulation 83.
2. As works commenced without a valid Commencement Notice having been submitted, the appellants became liable for CIL and CIL surcharges with immediate effect. Consequently, as the CIL was not paid within 30 days, the Council were also entitled to impose a late payment surcharge in accordance with Regulation 85(1)(b).

3. Therefore, on the evidence before me, I am satisfied that the alleged breaches which led to the surcharges occurred. The appeal fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the surcharges of [REDACTED] and [REDACTED] are upheld.

K McEntee