



Appeal Decision

by **Ken McEntee**

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 2 December 2016

Appeal ref: APP/P3610/L/16/1200055

- The appeal is made under Regulation 117(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] of [REDACTED].
- A Liability Notice was served on the previous land owner on 5 August 2015.
- A Liability Notice was served on the appellant on 13 September 2016.
- A Demand Notice was served on the appellant on 13 September 2016.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: "New detached dwelling and associated parking".
- The outstanding surcharge for failure to assume liability is [REDACTED].
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED].

Summary of decision: The appeal under Regulation 117(b) is dismissed and the surcharges [REDACTED] are upheld.

Reasons for the decision

1. An appeal under CIL Regulation 117 (b) is that the collecting authority did not serve a Liability Notice in respect of the chargeable development to which the surcharge relates. In this case, it is sufficiently clear from the evidence that a Liability Notice was initially served by the Council (as the Collecting Authority) on 5 August 2015, but the appellant points out that it was served on the previous owner of the land. However, as the Council explain (and have provided documentary evidence), the Liability Notice was registered as a local land charge one day after it was served, which the Council are obliged to do under the Local Land Charges Act 1975. Such a charge binds the land, and any purchaser and owner of the property is deemed to have full knowledge of any burden attached to the land by virtue of the registration. The wording of Regulation 117 (b) is not personalised for this reason. Therefore, I am satisfied that a Liability Notice was correctly served by the Council.
2. As the Council also point out, Regulation 33 explains that where a chargeable development is commenced and nobody has assumed liability to pay the CIL in respect of that development, liability defaults to the person who has entered on or taken possession of the land. Therefore, I am satisfied that the appellant, who is now the owner of the land, is liable to pay the CIL and its surcharges.

3. In these circumstances, the appeal under Regulation 117 (b) fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the surcharges are upheld.

K McEntee