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# Appeal Decision

by **Ken McEntee**

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

Decision date: 19 January 2017

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## Appeal ref: **APP/K3605/L/16/1200063**

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- The appeal is made under Section 218 of the Planning Act 2008 and grounds 117 (a) and 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED].
- A Liability Notice was served on the appellant on 16 September 2015.
- A revised Liability Notice was served on the appellant on 28 September 2016.
- A Demand Notice was served on the appellant on 28 September 2016.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: "Variation of Condition 2 (Approved Plans) of planning permission [REDACTED] (new house) to remove rear single storey section, increase rear first floor, replace garage door with window, square and gable front bay and general alterations to windows and doors".
- Planning permission was granted on 13 August 2015.

**Summary of decision: The appeal under Regulation 117 (a) is turned away and the appeal under Regulation 118 is dismissed.**

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### The appeal under Regulation 117 (a)

1. An appeal on this ground states that the claimed breach which led to the surcharge did not occur. The appellant did not initially make an appeal on this ground, but as most of her arguments relate to the contention that she did submit a Commencement Notice, the appeal case officer wrote to the appellant asking if she would like to include a ground 117 (a) appeal, which the appellant confirmed she would. However, on further inspection of the Demand Notice, it appears clear that it does not actually include a surcharge. Therefore, there can be no valid appeal on this ground and the appeal must therefore be turned away.
2. The appellant also requests the re-instatement of the CIL exemption that was granted and subsequently removed by the Council. However, there is no ground available under the Regulations in which to appeal against this and therefore I have no jurisdiction in the matter.

### The appeal under Regulation 118

3. An appeal on this ground states that the collecting authority has issued a Demand Notice with an incorrectly determined deemed commencement date. In this case,

the Council have determined the deemed commencement date to be 14 August 2016, which they gleaned from investigation of the building control demolition records, but the appellant contends that works did not commence until 16 August 2016. However, the appellant has not provided any evidence to support her claim. Therefore, on the evidence before me, I cannot be satisfied that the Council have incorrectly determined the deemed commencement date. In these circumstances, the appeal under Regulation 118 fails accordingly.

**Formal decision**

4. For the reasons given above, I hereby dismiss the appeal.

*K McEntee*