The Planning Inspectorate

Appeal Decision

by Ken McEntee

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

Decision date: 20/10/2017

Appeal ref: APP/W5780/L/17/1200106
[redacted]

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a), (b) and (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [redacted].
- A Liability Notice was issued by the London Borough of Redbridge on 24 August 2016.
- A Demand Notice was issued on 29 March 2017.
- The relevant planning permission to which the CIL surcharge relates is [redacted]
- The description of the development is: [redacted]
- The date on which planning permission was issued to vary condition 4 is 28 June 2016.
- The alleged breaches of the CIL Regulations are the failure to submit a Commencement Notice and the late payment of the CIL.
- The outstanding surcharge for failure to submit a Commencement Notice is [redacted].
- The outstanding surcharge for late payment of the CIL is [redacted].

Summary of decision: **The appeal on all three grounds is dismissed and the surcharges of [redacted] and [redacted] are upheld.**

Procedural matters

1. Although the appeal has been made on grounds 117 (1)(a), (b) and (c), most of the arguments put forward by the appellant concern his view that the development qualifies for a self-build exemption. For the avoidance of doubt, whether such an exemption should be granted is not within my remit to determine. I can only consider the appeal on the grounds made.

The appeal on Regulation 117(1)(a)[1]

2. An appeal under section 117(a) states that the claimed breach which led to the imposition of the surcharge did not occur. Regulation 67 (1) of the CIL regulations explains that a Commencement Notice (CN) must be submitted to the collecting authority no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant contends that he submitted a CN on 5 August 2016. However, the Council (Collecting Authority) insist they have no record of having received one. Given the importance of the

[1] The surcharge which led to the surcharge did not occur.

notice and the fact that the appellant could potentially be facing a surcharge, it is not unreasonable to expect the appellant to have contacted the Council before starting works to check the Council were in safe receipt of the notice and to obtain written confirmation. I take the view that to press ahead with development without taking such steps was a risky strategy to take. While the appellant is correct to say that there is no legal requirement for documents to be submitted by Recorded Delivery, the result of choosing not to do so has resulted on there being no proof of postage. Therefore, although a CN was submitted with the appeal documents, there is no evidence before me to demonstrate that one was actually submitted to the Council before works on the chargeable development commenced.

3. Consequently, on the evidence available, I cannot be satisfied a CN was actually submitted before works began on the chargeable development in accordance with Regulation 67(1). Therefore, I conclude that the alleged breach of planning control occurred and the appeal under Regulation 117 (a) fails accordingly.

The appeal under Regulation 117 (1)(b)[2]

4. The basis of the appellant's case on this ground is that the Council sent the Liability Notice to the site address of [redacted], instead of the appellant's home address of [redacted]. Regulation 126(1)(c) explains that documents may be served by sending it by post, addressed to that person at that person's usual or last known place of abode or, in the case where an address for service has been given by that person, at that address. In this case, the applicant's address given on the planning application was the appeal site address. It was the responsibility of the appellant to inform the Council of his change of address and that all future correspondence should be sent to that address. Although, the CN submitted with the appeal provides the appellant's home address, unfortunately this was not received by the Council. Consequently, the Council correctly submitted the LN to the last known address, which was the address given in the planning application. Therefore, I am satisfied the Council correctly served the LN in accordance with Regulation 126 (1)(c). The appeal under Regulation 117(1)(b) fails accordingly.

The appeal under Regulation 117(1)(c)[3]

5. Although an appeal has been made on this ground the appellant has not substantiated it with any supporting evidence to demonstrate that the surcharge has been incorrectly calculated. On the evidence before me, I am satisfied that the surcharge has been correctly calculated in accordance with Regulations 83 and 85. The appeal under Regulation 117 (1)(c) fails accordingly.

6. It is clear that the appellant is not satisfied with the service he has received from the Council and the information they have allegedly given him. However, any complaints concerning the Council's conduct or their adopted procedures should be addressed through their established complaints procedure in the context of local government accountability.

[2] The collecting authority failed to serve a liability notice in respect of the development to which the surcharge relates.
[3] The surcharge has been calculated incorrectly.

Formal decision

7. For the reasons given above, I hereby dismiss the appeal on the grounds made and uphold the CIL surcharges.

K McEntee