



Appeal Decision

by Ken McEntee

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

Decision date: 16/11/2017

Appeal ref: APP/Z2830/L/17/1200116

Land at [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED].
- A Liability Notice was issued by the South Northamptonshire Council on 20 July 2016.
- A Demand Notice was issued on 12 May 2017.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: [REDACTED]
- [REDACTED]
- Planning permission was granted on 20 July 2016.
- The alleged breach of the CIL Regulations is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED].

Summary of decision: The appeal is dismissed and the surcharge of [REDACTED] is upheld.

1. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. In this case, the appellant contends that he did not receive a Liability Notice so was not made aware of the CIL to be paid. The Council point out that the notice could be found via a link provided in the e-mail sent to the appellant's agent on 20 July 2016 enclosing the decision notice. However, the appellant's agent wrote to the Council stating that the link makes no reference to CIL Liability and questioning why the notice was not served by post.
2. Regulation 126 lists the different ways in which documents may be served. Regulation 126(1)(e) states "*in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address...*". Condition 126(2)(a) is that the notice or other document must be "*capable of being accessed by the person mentioned in that provision*". It is not disputed that the appellant's agent received the Council's e-mail of 20 July 2016, but I accept that it doesn't actually make reference to the Liability Notice. However, I am satisfied that the link provided in the e-mail leads to all documents associated with the Decision Notice, including the Liability Notice. Therefore, while it would have been helpful if the Council had referred to the

Liability Notice in their e-mail, I am satisfied the requirement of Regulation 126 (1)(e) has been met as the notice was capable of being accessed via the link provided. The appeal under Regulation 117(1)(b) fails accordingly.

Formal decision

3. For the reasons given above, I hereby dismiss the appeal on the ground made and uphold the CIL surcharge of [REDACTED]

K McEntee