



## Appeal Decision

**by Ken McEntee**

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

**Decision Date 22/11/2017**

**Appeal ref: APP/M0933/L/17/1200112**

- 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]
- A Liability Notice was issued by South Lakeland District Council on 20 May 2016.
- A Demand Notice was issued on 9 December 2016.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: [REDACTED]
- The alleged breach is the failure to submit a commencement Notice.
- 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.**

### Procedural matters

1. The Demand Notice refers in error to the failure to submit a notice of chargeable development as the reason for the surcharge, but the correct reason is the failure to submit a Commencement Notice (CN). However, as the surcharge amount is the same for either breach and the Council (Collecting Authority) would simply be able issue a revised Demand Notice under Regulation 69(1)(3), I am satisfied I can proceed on the basis of the correct alleged breach of the failure to submit a CN, without causing prejudice to the appellant.

### Reasons for the decision

2. An appeal under Regulation 117(1)(a) states that the claimed breach which led to the imposition of the surcharge did not occur. Regulation 67 explains that a CN must be submitted to the Council (Collecting Authority) no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant does not dispute that he failed to submit a CN before starting works on the chargeable development. His case is more focussed on the CIL process, that he has found to be confusing, [REDACTED] I have sympathy with the appellant if he has found the CIL process to be difficult to understand [REDACTED]. However, the inescapable fact is a CN was not submitted before works on the

chargeable development began as required by Regulation 67(1). Therefore, on the facts before me the appeal must fail on the ground made.

**Formal decision**

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

*K McEntee*