



# Appeal Decision

by Ken McEntee

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

Decision 12 December 2017

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**Appeal ref: APP/D3315/L/17/1200129**

- The appeal is made under Regulations 117(1)(a) and 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED]
- A Liability Notice was issued by Taunton Deane Borough Council on 17 January 2017.
- A Demand Notice was issued on 22 June 2017.
- The relevant planning permission for which the CIL surcharge relates is [REDACTED]
- The description of the development is [REDACTED]
- [REDACTED]
- Planning permission was granted on 15 December 2016.
- The deemed commencement date given in the Demand Notice is 19 June 2017.
- The alleged breach of CIL Regulations is failure to submit a Commencement Notice before beginning works on the chargeable development.
- The outstanding surcharge payable for failure to submit a valid Commencement Notice is [REDACTED].

**Summary of decision: The appeal on Regulations 117(1)(a) and 118 is dismissed and the surcharge of [REDACTED] is upheld.**

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## The appeal under Regulation 117(1)(a)

1. An appeal on this ground is that the claimed breach which led to the surcharge did not occur. Regulation 67 (1) requires a Commencement Notice (CN) to be submitted, no later than the day before the day on which the chargeable development is to be commenced. In this case, it appears the appellants hand-delivered a CN to the Council's offices on 19 June 2017. However, the notice stated a commencement date also of 19 June 2017. Therefore, in accordance with Regulation 83 the Council (Collecting Authority) served a Demand Notice, imposing a surcharge of [REDACTED]. However, the appellants contend that the date of 19 June 2017 was entered in the CN in error and the development did not actually commence until 20 June 2017.
2. CIL is a very formulaic and inflexible regime. The Liability Notice of 17 January 2017 makes clear in emboldened type the need to submit a CN no later than the day before the day on which the chargeable development is to be commenced. I also note that on 16 June 2017 the Council sent a reminder to the appellants that a CN must be received by the Council before any work in relation to the

development commences. Therefore, the appellants should have been very much aware of the importance of following the procedures correctly. In view of this, while I have sympathy if the appellants have made a genuine mistake, I can only consider the documentary evidence before me, which indicates a CN was not received by the Council at least one day before works began on the chargeable development as required by Regulation 67(1). The appeal on Regulation 117 (1)(a) fails accordingly.

### **The appeal under Regulation 118**

3. An appeal on this ground is that, the Collecting Authority issued a Demand Notice with an incorrectly determined deemed commencement date. In view of my findings above, it follows that I cannot be satisfied that the Council, as the Collecting Authority, has issued a Demand Notice with an incorrectly deemed commencement date. The appeal on Regulation 118 fails accordingly.

### **Formal decision**

4. For the reasons given above, the appeal on the grounds made is dismissed and the surcharge of [REDACTED] is upheld.

*K McEntee*