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# Appeal Decision

by **Ken McEntee**

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

Decision date: 18 July 2018

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**Appeal ref: APP/F5540/L/17/1200155**

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED]
- A Liability Notice was served on 11 June 2014 by the London Borough of Hounslow.
- A Demand Notice was served on 28 March 2017
- A revised Demand Notice was served on 13 April 2017.
- A revised Demand Notice was served on 11 August 2017.
- A revised Demand Notice was served on 6 November 2017.
- A revised Demand Notice dated 6 November was served on 13 November 2017.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- Planning permission was granted on 7 June 2013.
- The alleged breaches which led to the surcharges are the failure to assume liability and the failure to submit a Commencement Notice.
- The outstanding surcharge for failing to assume liability is [REDACTED]
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED]
- The outstanding late payment surcharges total [REDACTED]
- The outstanding late payment interest is [REDACTED]

**Summary of decision: The appeal is dismissed and the surcharges are upheld.**

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## Reasons for the decision

1. An appeal under Regulation 117(1)(c) states that the surcharge has been calculated incorrectly. In this case, the appellant does not dispute that he failed to submit an Assumption of Liability Notice and a Commencement Notice before starting works on the chargeable development. Therefore, I am satisfied that the surcharges of [REDACTED] are correct in accordance with Regulations 80 and 83 respectively. However, the appellant argues that as the Council (Collecting Authority) initially incorrectly calculated the CIL, the late payment surcharges should be calculated from when the revised Demand Notice correcting the correct CIL was issued. However, Regulation 71(2) explains that where the Collecting Authority determines a deemed commencement date for a chargeable development, the payable CIL is due in full on the deemed commencement date.

In this case, the Council deemed the commencement date to be May 2016 as that was the date given by the appellant in correspondence of 6 November 2017.

2. Nevertheless, late payment surcharges are not calculated by way of a time period. Regulation 85 explains that the Council may impose a surcharge of 5% of the unpaid CIL or £200, whichever is the greater amount. [REDACTED]  
[REDACTED] In accordance with Regulation 85, the Council imposed this surcharge 3 times - after 30 days, after 6 months and after 12 months, which amounts to a total surcharge (not including interest) of [REDACTED]. Therefore, I am satisfied that the late payment surcharges have been calculated correctly.
3. In these circumstances, the appeal fails accordingly.

### **Formal decision**

4. For the reasons given above, the appeal is dismissed on the ground made and the CIL surcharges are upheld.

*K McEntee*