



Appeal Decision

by **Ken McEntee**

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

Decision date: 23 August 2018

Appeal ref: APP/L5240/L/18/1200176

- The appeal is made under Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by the London Borough of Croydon.
- Planning permission was granted on 8 December 2017.
- A Liability Notice was issued on 8 December 2017.
- A Demand Notice was issued on 23 February 2018.
- The relevant planning permission for which the CIL surcharge relates is [REDACTED]
- The description of the development is [REDACTED]
- [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 is upheld.

Reasons for the Decision

1. This appeal involves a situation where the development, the subject of the CIL, was granted planning permission retrospectively as it was not built in accordance with the original planning permission ([REDACTED]). At the time of the original permission there was no CIL schedule in place within the London Borough of Croydon. Therefore, the appellant was not required to submit a Commencement Notice at that stage. However, CIL was in force by the time of the retrospective permission. The CIL guidance explains that where planning permission has been granted after commencement, the development may be deemed to be liable when permission is granted. Therefore, the appellant was required to submit a Commencement Notice before starting works on the chargeable development in accordance with Regulation 67(1). As this clearly did not happen, the Council were entitled to issue a Demand Notice imposing a surcharge of [REDACTED] in accordance with Regulation 83. While this is an unfortunate situation for the appellant, by not completing the works in accordance with the original permission, it is effectively one of his making.
2. In these circumstances, I am satisfied the alleged breach that led to the surcharge occurred. The appeal fails accordingly.

Formal decision

3. For the reasons given above, the appeal is dismissed and the surcharge of [REDACTED] is upheld.

K McEntee