



Appeal Decision

by **Ken McEntee**

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

Decision date: 19/09/2018

Appeal ref: APP/L5240/L/18/1200174

- The appeal is made under section 218 of the Planning Act 2008 and 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 served by Croydon Council on 28 June 2017.
- A Demand Notice was served on 8 March 2018.
- The relevant planning permission to which the surcharge relates is [REDACTED]
- Planning Permission was granted on 28 June 2017.
- The alleged breach which led to the surcharge is 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.

Appeal under Regulation 117(1)(a)

1. An appeal under section 117(a) states that the claimed breach which led to the imposition of the surcharge did not occur. Regulation 67(1) of the CIL regulations explains that a Commencement Notice (CN) must be submitted to the Collecting Authority (Council) no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant submitted a Commencement Notice on 3 February 2018, stating a commencement date of 1 November 2017. Therefore, it is clear that a Commencement Notice was not submitted at least one day before works began on the chargeable development. The appellant contends that he did not receive the required CIL forms when requested. However, it was the appellant's responsibility to submit the necessary Commencement Notice; if he did not receive a blank copy of the form after requesting it, the onus was on him to contact the Council to chase it up. To go ahead and commence works on the development without having done so was a risky strategy for the appellant to take.
2. As a Commencement Notice was not submitted before works began on the chargeable development in accordance with Regulation 67(1), I am satisfied that the alleged breach occurred as a matter of fact. In these circumstances the appeal on this ground fails accordingly.

Appeal under Regulation 118

3. An appeal under this ground is that the Collecting Authority has issued a Demand Notice with an incorrectly determined deemed commencement date. The Council have deemed the date to be 1 November 2017 as that is the date stated in the belated Commencement Notice. However, the appellant states in his appeal form of 8 March 2018 that the correct date of commencement is 30 November 2017. He then contradicts this in his e-mail of 20 March 2018 to the Planning Inspectorate's case officer, where he states "*Works commenced on 01/11/2017 but we did not have the Form 6: Commencement Notice on file to send at this point*". As the appellant has twice given the date of 1 November 2017 and that is the date stated in the Commencement Notice, I am not satisfied on the evidence before me that the Council have issued a Demand Notice with an incorrectly determined deemed commencement date. Consequently, the appeal on this ground also fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed on the grounds made and the CIL surcharge is upheld.

K McEntee