



# Appeal Decision

by Ken McEntee

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

Decision date: 7 November 2018

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**Appeal ref: APP/G1250/L/18/1200194**

- 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 Bournemouth Borough Council.
- Planning permission was granted on 31 January 2018.
- A Liability Notice was issued on 2 February 2018.
- A Demand Notice was issued on 7 June 2018.
- The relevant planning permission for which the CIL surcharge relates is [REDACTED].
- The description of the development is [REDACTED].
- The alleged breach 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 is upheld.**

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## Reasons for the decision

1. 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. Regulation 83 explains that where a chargeable development is commenced before the Collecting Authority has received a valid Commencement Notice, the Council may impose a surcharge equal to 20 percent of the chargeable amount payable or £2,500, whichever is the lower amount.
2. In this case, the appellant contends that the vehicular access he has created is in order to avoid parking tickets due to parking restrictions on the road and it has no relation to the access for the proposed development. However, in their response to the appeal, the Council contend they visited the site on 5 June 2018 and found the access created to be in accordance with the approved plans. I note that the appellant has not taken the opportunity to respond to the Council's assertion. Therefore, on the evidence before me, I can only conclude that works have commenced on the chargeable development. Consequently, the alleged breach has occurred as no Commencement Notice was submitted before works began as required by Regulation 67(1).

**Formal decision**

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

*K McEntee*