



3. It is ultimately the Council's responsibility to ensure a Liability Notice is correctly served. Regulation 126 (1) explains the options open to the Council for serving documents. It appears the Council submitted the LN by standard post in line with Regulation 126(1)(c). While they were entitled to do so, it entails an element of risk as it provides no proof of postage, unlike the option of registered post or recorded delivery, as per Regulation 126(1)(d), which requires a signature of receipt. In the absence of any such documentary evidence before me, I cannot be satisfied that a LN was correctly served on the appellant. Therefore, I have no option but to give the appellant the benefit of the doubt in this case.
  
4. The Council point to the fact that the appellant would have been fully aware in any event of the need to submit a Commencement Notice from previous documentation received and submitted. While I appreciate the Council's point, CIL is a very rigid and formulaic process and Regulation 65(3)(a) makes clear the Collecting Authority must serve a LN on the liable person - the appellant having knowledge through other means of correspondence does not serve as a substitute for the required CIL notice. In any event, Regulation 67(2)(b) requires that a Commencement Notice must identify the LN in relation to the chargeable development in order for it to be valid. Therefore, irrespective of having knowledge of what was required, in the absence of the relevant LN it was not possible for the appellant to submit a valid Commencement Notice. In these circumstances, I have no option but to allow the appeal and quash the surcharge.

#### **Formal decision**

5. For the reasons given above, the appeal under on Regulation 117(1)(b) is allowed and the surcharge of [REDACTED] is quashed.

*K McEntee*