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# Appeal Decision

by **Ken McEntee**

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

Decision date: 12 March 2019

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**Appeal ref: APP/D1780/L/18/1200220**

- The appeal is made under Regulations 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Southampton City Council.
- Planning permission was granted on 14 April 2014.
- A Liability Notice was served on 17 April 2014.
- A Demand Notice was served on 25 September 2018.
- The relevant planning permission for which the CIL surcharge relates is [REDACTED].
- The description of the permission is [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- The alleged breaches are the failure to assume liability and the failure submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to assume liability is [REDACTED]
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED]

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

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## The appeal under Regulation 117(1)(a)

1. Regulation 31 explains that a person who wishes to assume liability to pay CIL in respect of a chargeable development must submit an Assumption of Liability Notice to the Collecting Authority (Council). Regulation 80 explains that a surcharge of £50 may be imposed where the chargeable development has been commenced and no one has assumed liability. 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(1) explains that where a chargeable development is commenced before the Council has received a valid CN they may impose a surcharge equal to 20 per cent of the chargeable amount payable or £2,500, whichever is the lower amount.
2. As the appellant concedes, he received a Liability Notice dated 17 April 2014. In that notice, it clearly explains the requirement to assume liability and to submit a CN before commencing work on the chargeable development. The notice also explains the possible consequences of failing to comply with either of these requirements. The appellant does not refute that he did not assume liability or

that he did not submit a CN before commencing works on the chargeable development. Therefore, I am satisfied that the alleged breaches which led to the surcharges occurred as a matter of fact. The appeal on the ground made fails accordingly.

3. The appellant contends that he was told by a building Inspector that he would receive an invoice from the Council, but it never arrived. However, the Liability Notice, which the appellant accepts he did receive, clearly stated the amount of CIL he was liable to pay. Nevertheless, if the appellant is not happy with the Council's conduct in this matter or their adopted procedures it is open to him to make a complaint through the Council's established complaints process in the context of local government accountability.

### **Formal decision**

4. For the reasons given above, the appeal on the grounds made is dismissed and the surcharges [REDACTED] are upheld.

*K McEntee*