
Appeal Decision

by **Ken McEntee**

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

Decision date: 12 March 2019

Appeal ref: APP/L5810/L/18/1200223

[REDACTED]
[REDACTED]

- The appeal is made under Regulations 117(1)(b) and (c) and 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by the London Borough of Richmond upon Thames.
- Planning permission was granted on 30 November 2016.
- A Liability Notice was served on 15 December 2016.
- A revised Liability Notice was served on 27 April 2017.
- A further revised Liability Notice was served on 11 October 2018.
- A Demand Notice was served on 11 October 2018.
- The relevant planning permission for which the CIL surcharge relates is [REDACTED].
- The description of the permission is [REDACTED].
- The alleged breaches are the failure to assume liability and the failure to 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.

Procedural matters

1. It is clear from the appellant's supporting text that the main basis of her case is one of mitigation concerning health and relationship failing to submit the required notices before commencing works. While I have every sympathy with the appellant and do not wish to appear in any way dismissive that she has been experiencing health and relationship issues whilst at the same time trying to keep on top of this matter, I am afraid I can only determine the appeal on its facts and have no discretionary powers to allow for personal mitigating circumstances in my determination.

The appeal under Regulation 117(1)(b)

2. An appeal under this Regulation is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. In this case, the appellant accepts that she did receive

the original Liability Notice of 15 December 2016 but contends that she did not receive the revised notice of 27 April 2017. While it is unfortunate if the appellant did not receive the revised Liability Notice, the fact remains that she did receive the original. Therefore, the appeal on this ground fails accordingly.

The appeal under Regulation 117(1)(c)

3. An appeal under this Regulation is that the surcharge has been calculated incorrectly. The Liability Notice clearly explains that an Assumption of Liability Notice and a Commencement Notice must be submitted before commencing works on the chargeable development. The appellant does not refute that she did not send either of these forms before starting works on the chargeable development. Consequently, the Council imposed the relevant surcharges in line with Regulations 80 and 83. Regulation 80(1) explains that explains that a surcharge of £50 may be imposed where the chargeable development has been commenced and no one has assumed liability. Regulation 83(1) explains that where a chargeable development is commenced before the Council has received a valid Commencement Notice they may impose a surcharge equal to 20 per cent of the chargeable amount payable or £2,500, whichever is the lower amount. I am satisfied that the surcharges have been correctly calculated and therefore the appeal on this ground fails accordingly.

The appeal under Regulation 118

4. An appeal under this Regulation is that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. However, the appellant has not submitted any supporting arguments to dispute the deemed commencement date determined by the Council of 25 April 2018. Consequently, I have no reason to believe the Council has issued a demand Notice with an incorrectly determined deemed commencement date. The appeal on this ground fails accordingly.

Formal decision

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

K McEntee