



Appeal Decision

by **Ken McEntee**

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

Decision date: 10 April 2019

Appeal ref: APP/E0345/L/18/1200227

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Reading Borough Council.
- Planning permission was granted on appeal on 17 March 2017.
- Liability Notices were issued on 19 July 2017.
- A Demand Notice was issued on 23 October 2018.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development 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]
- The outstanding surcharge for late payment is [REDACTED]

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

Reasons for the decision

1. An appeal under Regulation 117(1)(b) 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 Collecting Authority posted separate Liability Notices to [REDACTED] as the applicants/landowners and [REDACTED] as the agent. Regulation 65(3)(a) explains that a Liability Notice must be served on the "relevant person" as defined in Regulation 65(12) – essentially, the person who applied for planning permission. Regulation 126(1)(d) explains that the notice may be served on that person by sending it in a prepaid registered letter, or by recorded delivery service, addressed to that person's usual or last known place of abode or, in a case where an address for service has been given by that person, at that address. It appears clear that this is precisely what the Collecting Authority did and they have produced documentary evidence to demonstrate this in the form of signed proof of delivery receipts. Unfortunately, [REDACTED] had changed his contact address since planning permission was granted without informing the Collecting Authority, so

although the Liability Notice intended for him was signed for, it appears it was not passed on to him.

2. The Collecting Authority obtained the address for [REDACTED] from Land Registry records and the section 106 agreement from February and March 2017 respectively. They did not receive notification of any change of address so a Liability Notice was correctly sent to their last known place of abode.
3. While I have sympathy with the appellant [REDACTED] if they did not receive a Liability Notice, the onus was very much on him/them to notify the Collecting Authority of any change of address for receipt of documents. Without being informed of any alternative addresses, I am satisfied the Collecting Authority correctly served the Liability Notices in accordance with Regulation 126(1)(d). In these circumstances, the appeal fails accordingly.

Formal decision

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

K McEntee