



Appeal Decision

by **Ken McEntee**

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

Decision date: 15 May 2019

Appeal ref: APP/A1910/L/18/1200234

- The appeal is made under Regulations 117(1)(a) and (b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Dacorum Borough Council.
- The relevant planning permission to which the surcharges relate is [REDACTED] for a new dwelling.
- Planning permission was granted on 4 May 2017.
- A Liability Notice was served on the applicant for planning permission [REDACTED] and his agents [REDACTED] on 22 May 2017.
- A Liability Notice was served on the appellant on 17 October 2018.
- A Demand Notice was served on the appellant on 17 October 2018.
- The alleged breaches which led to the imposition of the surcharges the failure to assume liability and to submit a Commencement Notice before commencing works on the chargeable development.
- The outstanding surcharge for failure to assume liability is [REDACTED]
- The outstanding surcharge to submit a commencement notice is [REDACTED]

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

The appeal on ground 117(1)(a)¹

1. Regulation 31(1) of the CIL Regulations states 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 on each person liable to pay CIL where the chargeable development has commenced and no one has assumed liability. Regulation 67(1) of the CIL regulations states that a Commencement Notice (CN) must be submitted to the 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 Council has received a valid CN, they may impose a surcharge equal to 20% of the chargeable amount payable or £2,500, whichever is the lower amount.

¹ The claimed breach which led to the surcharge did not occur

2. In this case, despite appealing on this ground, the appellant does not refute the Council's claim that he failed to submit an Assumption of Liability Notice or a Commencement Notice before starting works on the chargeable development. Therefore, on the evidence before me, I am satisfied the claimed breaches that led to the surcharges occurred as a matter of fact. The appeal on this ground fails accordingly.

The appeal on ground 117(1)(b)²

3. It is clear from the evidence that the original Liability Notice was served on the applicant for planning permission and his agents on 22 May 2017. A Liability Notice was eventually served on the appellant on 17 October 2018 after it became apparent works had commenced on the chargeable development and that he was the new owner of the site. The original Liability Notice was registered as a local land charge at the time it was served, which the Council are obliged to do under the Local Land Charges Act 1975. Such a charge binds the land. Any purchaser and owner of the property are deemed to have full knowledge of any burden attached to the land by virtue of the registration. The wording of Regulation 117(1)(b) is not personalised for this reason. Therefore, I am satisfied that a Liability Notice was correctly served by the Council and consequently the appellant should have been aware of the CIL procedures as explained in the notice. The appeal on this ground also fails accordingly.

Formal decision

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

K McEntee

² The collecting authority failed to serve a liability notice in respect of the development to which the surcharge relates