



## Appeal Decision

by **Ken McEntee**

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

Decision date: 5 June 2019

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**Appeal ref: APP/L5240/L/19/1200249**

- The appeal is made under Regulation 117(1)(b) and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Croydon Council.
- Planning permission was granted on 21 July 2017.
- A Demand Notice was served on 10 January 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is; [REDACTED]  
[REDACTED]
- The alleged breach is the failure to submit a Commencement Notice.
- The outstanding surcharges for failure to submit a Commencement Notice, late payment and late payment interest is [REDACTED]

**Summary of decision: The appeal is allowed and the surcharges are quashed.**

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

1. An appeal under this ground is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. Unfortunately, the Council failed to submit any response to the appeal until after the deadline for receipt and consequently it was returned. Therefore, there is nothing before me to refute the appellant's claim and to demonstrate that a Liability Notice was in fact served. Consequently, as there is no evidence to the contrary, I have no reason not to accept the appellant's assertion that he did not receive a Liability Notice. In these circumstances, I have no option but to allow the appeal and quash the surcharges in line with Regulation 117(4).

### The appeal under Regulation 118

2. An appeal under this ground is that the Collecting Authority has issued a Demand Notice with an incorrectly determined deemed commencement date. In this case, the Demand Notice states a deemed commencement date of 16 October 2018, whereas the Commencement Notice submitted by the appellant on 27 March 2018 states a commencement date of 16 October 2017. There is no explanation before

me of how the Council determined the date to be precisely one year later but it is reasonable to assume that this was simply a typing error. Therefore, on the evidence before me, I conclude that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. Consequently, the appeal on this ground also succeeds and the Demand Notice ceases to have effect in line with Regulation 118(4).

**Formal Decision**

3. For the reasons given above, the appeal is allowed under the grounds made and the surcharges totalling [REDACTED] are quashed.

*K McEntee*