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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: 10 July 2019

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**Appeal ref: APP/W0340/L/19/1200246**

- [REDACTED]
- 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 West Berkshire Council.
  - Planning permission was granted on appeal on 7 December 2018.
  - A Liability Notice were issued on 31 December 2018.
  - A Demand Notice was issued on 11 January 2019.
  - The relevant planning permission to which the CIL surcharges relates is [REDACTED].
  - The description of the development is: [REDACTED]  
[REDACTED]  
[REDACTED]  
[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.**

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## Reasons for the decision

1. An appeal under Regulation 117(1)(b) is that the Council failed to serve a Liability Notice in respect of the development to which the surcharge relates. In this case, the relevant development is a variation to a condition of planning permission [REDACTED]. It is noted that the Collecting Authority (Council) inexplicably did not issue a Liability Notice in relation to that original permission until some 8 months after it was granted. However, for the avoidance of doubt, that is not a matter that is before me to consider in this appeal. I can only determine whether or not a Liability Notice was issued in relation to retrospective planning permission [REDACTED]. With that in mind, although the appellant questions the Council's motives for doing so, he does not dispute that they issued a Liability Notice on 31 December 2018. Unfortunately, as the appellant had already begun works on the relevant development and did not assume liability or submit a Commencement Notice, he automatically became liable for surcharges. In the

circumstances described above, an appeal under the ground made cannot succeed.

2. It is clear that the appellant is unhappy with the Council's conduct with regards to the way they have dealt with the CIL matters. That being the case, he may wish to make a complaint through the Council's established complaints procedures in accordance with local government accountability

### **Formal decision**

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

*K McEntee*