The Planning Inspectorate

Appeal Decision

by Ken McEntee

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

Decision date: 31 July 2019

Appeal ref: APP/R5510/L/17/1200269

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- The appeal is made under Regulations 117(1)(a) and 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by ████████████████████████████████ against CIL surcharges imposed by the London Borough of Hillingdon.
- Planning permission was granted on 8 May 2014.
- A Liability Notice was issued on 8 May 2014.
- A Demand Notice was issued on 8 July 2016.
- A revised Demand Notice was issued on 29 September 2016 but was invalid.
- A revised Demand Notice was issued on 15 March 2019.
- The relevant planning permission to which the surcharge relates is █████████████████████.
- The description of the development is ████████████████████████ ██ ██ ███████████████████████████████.
- The alleged breaches are the failure to assume liability and the failure to submit a Commencement Notice.
- The outstanding surcharge for failing to assume liability is ████.
- The outstanding surcharge for failing to submit a Commencement Notice is ███████.

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

Reasons for the decision

1. The main basis of the appellants' case is that they contend they didn't receive a Liability Notice (LN) as it was not sent to the appellants' registered company address. The Collecting Authority (Council) sent an LN to ████████████████ ████████████████████████████ as this was the address given on the planning application form. Regulation 126(1) lists the options available for the serving of documents. Regulation 126(1)(f) explains the options for serving documents specifically on an incorporated company. Option (i) is "*by sending it to the Secretary or clerk of the company or body at their registered or principal office*". That being the case, the onus was on the Council to find out what that address was. Such information is freely available at Companies House. Had the Council checked the appellants' filing history at Companies House at the time of serving the LN, they would have found that the correct registered address was

██; not the address on the application form.

2. By the same token, it was not the address stated by the appellants in their appeal correspondence - ████████████████████████████████████, as this address was not registered until 1 December 2014. Nevertheless, it is clear that the LN was not sent to the correct address, and therefore was not served on the relevant person.

3. The Council contend that irrespective of whether the appellants received a LN, they would have been aware of what was required from the informative attached to the planning permission. However, CIL is a very rigid and formulaic process and Regulation 65(3)(a) requires a LN to be served on the relevant person. That person having knowledge by other means does not act as a substitute for the required notice. The LN is the trigger for the recipient to submit the necessary forms before starting works on the chargeable development. In the absence of a LN, it was not possible for the appellants to submit a valid Commencement Notice as they would not have been able to identify the LN as required by Regulation 67(2)(b). In these circumstances, I conclude that the alleged breaches that led to the surcharges did not occur and I quash the surcharges in accordance with Regulation 117(4).

Formal decision

4. For the reasons given above, the appeal under both Regulations 117(1)(a) and 117(1)(b) is allowed and the surcharges of ███████████████ are quashed.

K McEntee