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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: 25 September 2019

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## Appeal ref: APP/L5240/L/19/1200268

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Croydon Council.
- Planning permission was granted on 3 May 2018.
- A Liability Notice served on [REDACTED] on 11 May 2018.
- A Liability Notice was served on the appellants on 20 February 2019.
- A Demand Notice was served on 12 March 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: [REDACTED]  
[REDACTED]  
[REDACTED].
- The alleged breach is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED].

**Summary of decision: The appeal is dismissed and the surcharge is upheld.**

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## Reasons for the decision

1. An appeal under this ground is that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharge relates. The LN makes clear the requirement to submit a Commencement Notice before starting works on the chargeable development and the consequences of failing to do so. In this case, the Council served a LN on the original land owners, [REDACTED] on 11 May 2018 in relation to planning permission [REDACTED]. Since then, the appellants were granted planning permission [REDACTED] on 11 October 2018 for amendments to permissions [REDACTED] and [REDACTED]. The appellants' case in this appeal appears to be focussed on the Council's failure to serve a LN in relation to [REDACTED]. However, that is not a matter before me to consider. I can only consider whether or not the Council served a LN solely in relation to planning permission [REDACTED], to which the CIL relates and is the subject of this appeal.

2. With that in mind, the original LN served on [REDACTED], will have been as 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 or 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 appellants should have been aware of the CIL procedures as explained in the notice. In these circumstances, the appeal on this ground fails accordingly.
3. It is clear that the appellants are not happy with the dealings they have had with the Council in this matter. If the appellants have concerns about the Council's conduct or their adopted procedures, they may wish to make a complaint through the Council's established complaints process in the context of local government accountability.

### **Formal decision**

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

*K McEntee*