



Appeal Decision

by **Ken McEntee**

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

Decision date: 16/10/2019

Appeal ref: APP/C1245/L/19/1200283

- 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 a surcharge imposed by Dorset Council.
- Planning permission was granted on 28 April 2017.
- A Liability Notice was served on 28 April 2017.
- A further Liability Notice served on 3 May 2018.
- A Demand Notice was served on 14 May 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: [REDACTED]
- The alleged breach which led to the surcharge is the failure to pay the second CIL instalment on time.
- The late payment surcharge is [REDACTED]

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

Procedural matters

1. Although the appeal has been made under Regulation 117(1)(b), it appears clear from the appellant's supporting arguments that the main purpose of the appeal is to contest the Council's decision to impose a late payment surcharge. However, he has not appealed under Regulation 117(1)(a) and argued that the alleged breach which led to the surcharge did not occur (that payment on the second instalment was not late). For the avoidance of doubt, I can only determine the appeal on the ground made (Regulation 117(1)(b)). If the appellant is unhappy with the Council's conduct in imposing the surcharge or their adopted procedures, it is open to him to make a complaint through the Council's established complaints process in accordance with local government accountability.

Reasons for the decision

2. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) has failed to serve a Liability Notice in respect of the development to which the surcharge relates. However, in this case the appellant accepts that he received the Liability Notice dated 28 April 2017 and has provided a copy. Added to this, the Council has provided proof of postage of delivery of a further Liability Notice

issued on 3 May 2018. Therefore, on the evidence before me, I am satisfied the Council did not fail to serve a Liability Notice in respect of the development to which the surcharge relates. The appeal therefore fails accordingly.

Formal decision

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

K McEntee