



Appeal Decision

by **Ken McEntee**

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

Decision date: 12 November 2019

Appeal ref: APP/L5240/L/19/1200292

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) 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 8 March 2018.
- A Liability Notice served on 8 March 2018.
- A Demand Notice was served on 6 June 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: [REDACTED]
- The alleged breach is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].

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

Reasons for the decision

1. The appeal is made under Regulation 117(1)(a) - that the alleged breach that led to the surcharge did not occur. Regulation 67(1) of the CIL regulations explains that a Commencement Notice (CN) must be submitted to the Collecting Authority (Council) no later than the day before the day on which the chargeable development is to be commenced. In this case, it appears that commencement took place on 18 March 2019. The appellant contends that he posted a CN to the Council in January 2019. However, the Council contend that they did not receive it. It would appear that the notice was sent by standard post. While the appellant was perfectly entitled to use this method of postage, it unfortunately entails an element of risk as it does not provide for proof of postage in the way recorded delivery or registered post does for example, which requires a signature of receipt. While I have sympathy with the appellant if he genuinely submitted a CN, without any proof of postage I am afraid I have no option but to conclude that the alleged breach occurred.
2. I note that the appellant encountered communication difficulties in trying to contact the Council by telephone and e-mail in order to obtain an acknowledgement of receipt of the CN. While this was unfortunate, the fact remains that he pressed ahead with the development without having received

such an acknowledgement. I take the view that this was a risky strategy for the appellant to take. However, if he is unhappy with the Council's conduct in this matter or their adopted procedures, he may wish to make a complaint through the Council's established complaints process in the context of local government accountability.

Formal decision

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

K McEntee