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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: 30 March 2020

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**Appeal ref: APP/A1910/L/19/1200336**

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Dacorum Borough Council.
- Planning permission was granted on 7 February 2019.
- A Liability Notice was served on 12 February 2019.
- A Demand Notice was served on 11 September 2019.
- The relevant planning permission to which the CIL surcharges relates is [REDACTED].
- The description of the development is: [REDACTED]  
[REDACTED]  
[REDACTED]
- The alleged breaches are the failure to submit a Commencement Notice and the failure to assume liability before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The outstanding surcharge for failing to assume liability 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)(a) is that the alleged breaches which led to the surcharges did not occur. In this case, the appellant concedes that he did not submit a Commencement Notice before starting demolition works on the chargeable development but contends that this was due to a breakdown in communications with his architect. He argues that the surcharge [REDACTED] is disproportionate to what was a minor breach. However, while I can appreciate the appellant's frustration, CIL is a very rigid and formulaic process that must be followed. The Liability Notice makes clear the requirement to notify the Collecting Authority (Council) of the date of intended commencement of development by submitting a valid Commencement Notice. It also warns of possible surcharges for failing to do so. Regulation 83 explains that where a chargeable development is commenced before the Council has received a valid Commencement Notice, the Council may impose a surcharge equal to 20% of the chargeable amount payable or £2,500. Therefore, although it may seem disproportionate, [REDACTED] the Council imposed the correct surcharge that they were entitled to impose.

2. The appellant also does not refute that he failed to serve an Assumption of Liability Notice as required by Regulation 31(1). Therefore, the Council were also entitled to impose the surcharge [REDACTED] in accordance with Regulation 80.
3. While I have sympathy with the appellant if this was a simple oversight on his or his architect's part, the fact remains that neither a Commencement Notice or an Assumption of Liability Notice were submitted before works began on the chargeable development, as required by Regulations 67(1) and 31(1) respectively. In these circumstances, the appeal fails accordingly.

**Formal decision**

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

*K McEntee*