



Appeal Decision

by Ken McEntee

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

Decision date: 3 April 2020

Appeal ref: APP/A3010/L/19/1200329

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) and (b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Bassetlaw District Council.
- Planning permission was granted on 27 April 2017.
- A Liability Notice was served on 3 May 2017.
- A revised Liability Notice was served on 22 August 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 on both grounds and the surcharge is upheld.

Reasons for the decision

1. The appellant does not refute that he did not submit a Commencement Notice before starting works on the chargeable development as required by Regulation 67(1). However, he contends that he did not receive a Liability Notice (LN). Regulation 65(1) explains that the Collecting Authority (Council) must issue a LN as soon as practicable after the day on which a planning permission is granted. However, the Council contend that they sent a LN on 3 May 2017 to the appellant's address at the time [REDACTED]. However, as the appellant points out, the Council have not provided any proof of postage to support this claim. Nevertheless, the Council also state that they sent a copy of the LN by e-mail to the appellant's agent.
2. Regulation 126 explains the options open to the Council for service of documents. Regulation 126(1)(e) states "*in a case where an address for service using electronic communications has been given by that person, by sending it to that person at that address...*". In this case, [REDACTED] is stated in the planning application form of 16 December 2016 as the appellants' agent and his e-mail address is given as [REDACTED]. The appellant does not say whether he checked with [REDACTED] as to whether he received the Council's e-mail of 3 May 2017

attaching a copy of the LN. Therefore, on the evidence before me I have no reason to believe that the appellant's agent did not receive the LN. I have sympathy with the appellant if his agent did not act upon the LN, but I can only suggest that this is a matter the appellant may wish to take up with him. In the circumstances described, I can only conclude that a LN was correctly served in accordance with Regulation 126(1)(e).

3. As no Commencement Notice was submitted before works commenced on the chargeable development as required by Regulation 67(1), the Council were entitled to impose the surcharge of £2,500 in accordance with Regulation 83(1).

4. [REDACTED]

[REDACTED] I also note that the appellant is unhappy with the way the Council has dealt with this matter. If the appellant is not happy with the Council's conduct 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

5. For the reasons given above, the appeal is dismissed on both grounds made and the surcharge of [REDACTED] is upheld.

K McEntee