



## Appeal Decision

by **Ken McEntee**

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

Decision date: 24 April 2020

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**Appeal ref: APP/P1133/L/19/1200337**

- The appeal is made under Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Teignbridge District Council.
- Planning permission was granted on 25 March 2019.
- A Liability Notice was served on 8 October 2019.
- A Demand Notice was served on 8 October 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is [REDACTED]
- The alleged breach to which the surcharge relates 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 allowed and the surcharge is quashed.**

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### Reasons for the decision

1. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharge relates. In this case, the Council contend that they issued a LN on 25 March 2019. However, the appellant contends that he did not receive a LN until the one served on 8 October 2019. The [REDACTED] states that an e-mail was received concerning [REDACTED] but not [REDACTED]. The Council do not stipulate whether they sent the LN by e-mail or by post, although it's reasonable to assume they are contending that it was sent along with the planning permission of the same date. Nevertheless, they have not provided any proof of postage either way, such as the relevant email or a signed receipt for postal delivery. Without any such documentary evidence before me, I cannot be satisfied a LN was served on the appellant as required by Regulation 65(1). I note that the appellant concedes that he was aware of the need to submit a Commencement Notice before starting works on the chargeable development. However, CIL is a very rigid and formulaic process and the LN acts as the trigger for a Commencement Notice to be submitted. The appellant having knowledge by other means does not act as a substitute for the LN.

2. In these circumstances and on the evidence before me, I have no option but to allow the appeal and quash the surcharge.
3. For the avoidance of doubt, I only have the power to quash the surcharge. I have no power to grant a self-build exemption. I can only suggest that the appellant may wish to pursue this matter with the Council.

**Formal decision**

4. For the reasons given above, the appeal on the ground made is allowed and the surcharge of [REDACTED] is quashed.

*K McEntee*