



Appeal Decision

by **Ken McEntee**

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

Decision date: 11 May 2020

Appeal ref: APP/N5090/L/19/1200358

- The appeal is made under Regulation 117(1)(b) and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by the London Borough of Barnet.
- Planning permission was granted on 27 May 2016.
- A Demand Notice was served on 7 November 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is [REDACTED].
[REDACTED]
[REDACTED]
[REDACTED]
- The alleged breaches are the late payment of the CIL charge after 30 days and 6 months.
- The outstanding late payment surcharges of [REDACTED].
[REDACTED]
- The Determined deemed commencement date is 7 March 2019.

Summary of decision: The appeal is allowed under Regulation 117(1)(b) and the late payment surcharges are quashed, but the appeal under Regulation 118 is dismissed.

The appeal under Regulation 117(1)(b)

1. An appeal under this ground is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. In this case, the Council contend that they sent a LN by e-mail of 7 June 2016 to the appellant's agent, [REDACTED] in line with Regulation 126(1)(e). However, the appellant has provided a copy of correspondence from [REDACTED] stating that they have no record of having received such an e-mail. No documentary evidence has been provided by the Council to demonstrate that the e-mail was sent/delivered. It is ultimately the Council's responsibility to ensure a LN is served as required by Regulation 65. An LN informs the recipient of the payment procedure and acts as the trigger to submit the required forms, such as a Commencement Notice. On the evidence before me, I cannot be satisfied a LN was served in this case. The appeal under this ground therefore succeeds.

The appeal under Regulation 118

2. An appeal under this ground is that the Collecting Authority has issued a Demand Notice with an incorrectly determined deemed commencement date. In this case, the deemed commencement date given in the Demand Notice is 7 March 2019, which was reached by the Council based on building control records showing completion. However, the appellant contends that works began in June 2016. With no documentary evidence before me, it is difficult to determine the correct date. However, given my findings on the ground 117(1)(b) appeal above, the matter is somewhat academic. Therefore, as 7 March 2019 will have no adverse impact on the appellant and the Council are clearly content with it, I consider it expedient to accept that date. The appeal on this ground fails accordingly.

Formal decision

3. For the reasons given above, the appeal under the ground Regulation 117(1)(b) is allowed and the late payment surcharges are quashed, but the appeal under Regulation 118 is dismissed.

K McEntee