



Appeal Decision

by **Ken McEntee**

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

Decision date: 20 May 2020

Appeal ref: APP/A1910/L/19/1200353

- 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 a surcharge imposed by Dacorum District Council.
- Planning permission was granted on 1 October 2018.
- A Liability Notice served on 11 November 2019.
- A Demand Notice was served on 15 November 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. An appeal under regulation 117(1)(a) is that the alleged breach which led to the surcharge did not occur. Regulation 67(1) 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, the appellant's agents submitted a Commencement Notice (CN) by e-mail on 12 November 2019, dated 11 November 2019 and stating an intended commencement date also of the 11 November 2019. This clearly does not meet the requirement of Regulation 67(1). However, the appellant contends that works did not actually begin until 14 November 2019. That being the case, it was incumbent on him to submit a revised CN. In the last section of the submitted CN is a Declaration which makes clear the need to submit a new CN if the intended date of commencement changes and also warns of the potential consequences of failing to notify the Council of the intended commencement date by submitting a CN in advance of that date.
2. The appellant argues that if the Council did not accept the CN as valid, they should have immediately informed him. While I have some empathy with the appellant's point, the Council only had 2 days in which to do so if works began on 14 November 2019. In any event, the fact remains that the onus was on the

appellant to ensure a valid CN was received by the Council before works began on the chargeable development.

3. On the evidence before me therefore, I have to conclude that the alleged breach occurred and consequently the Council were entitled to impose a surcharge in accordance with Regulation 83(1)¹. In these circumstances, the appeal fails accordingly.
4. However, if the appellant 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 accordance with local government accountability

Formal decision

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

K McEntee

¹ Where a chargeable development is commenced before the Collecting Authority has received a valid Commencement Notice, the Collecting Authority may impose a surcharge equal to 20% of the chargeable amount payable or £2,500, whichever is the lower amount.