



Appeal Decision

by **Ken McEntee**

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

Decision date: 4 June 2020

Appeal ref: APP/R3650/L/20/1200379

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Waverley Borough Council.
- Planning permission was granted on 27 November 2019.
- A Liability Notice served on 2 December 2019.
- A Demand Notice was served on 2 January on 2020.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: [REDACTED]
[REDACTED]
[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.

The appeal under Regulation 117(1)(a)

1. An appeal under this ground is that the alleged breach that led to the surcharge did not occur. Regulation 67(1) of the CIL regulations 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 posted a CN on 3 December 2019 with an intended commencement date of 4 December 2019. Unfortunately, the Council did not receive the notice until 5 December 2019. The appellant contends that due to bad weather, works did not actually begin until after 5 December 2019. However, he does not specify a precise date and has not provided any supporting evidence. It is not clear why the appellant did not submit a revised CN, with a new intended commencement date, once it became clear works would not be commencing on 4 December 2019. The Liability Notice makes clear the need to submit a CN before development begins and warns of the potential consequences for failing to do so. Based on the evidence before me, I can only conclude that did not happen here and the alleged breach occurred. The appeal fails accordingly.
2. The appellant appears to question the Council's dealing actions in this matter. If the appellant is not happy 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 the context of local government accountability.

Formal decision

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

K McEntee