



Appeal Decision

by **Ken McEntee**

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

Decision date: 24 June 2020

Appeal ref: APP/F0114/L/20/1200384

- 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 surcharges imposed by Bath & North East Somerset Council.
- Planning permission was granted on 26 March 2018.
- A Liability Notice served 4 May 2018
- A Demand Notice was served on 30 January 2020.
- The relevant planning permission to which the CIL surcharges relates is [REDACTED].
- The description of the development is: [REDACTED]
- The alleged breaches are the failure to assume liability and the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to assume liability is [REDACTED]
- The outstanding surcharge for failing to submit a commencement Notice is [REDACTED]

Summary of decision: The appeal is dismissed and the surcharges are upheld.

Reasons for the decision

1. An appeal under regulation 117(1)(a) is that the alleged breaches which led to the surcharges 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. Regulation 83 explains that where a chargeable development is commenced before the Council has received a valid CN, they may impose a surcharge equal to 20% of the chargeable amount payable or £2,500, whichever is the lower amount. In this case, the appellant contends that the developers submitted a CN on 29 March 2019 before works began in April 2019 and have provided a copy of the CN to support her contention. However, the Council point out that the CN that has been provided with the appeal could not have been submitted on 29 March 2019 and have provided documentary evidence to support their claim. They demonstrate that the Document Properties show that the CN was created on 30 August 2019, some 5 months after works began. Furthermore, the version of the form used was not available until mid-August 2019 and therefore it was simply not possible for that form to have been submitted on 29 March 2019 as claimed by the appellant.

2. Aside from the fact that the appellant has not provided any proof of postage, I take the Council's evidence to be compelling and conclude that a CN was not submitted before works commenced on the chargeable development. I also note the appellant does not refute that she did not assume liability as required by Regulation 31(1). Therefore, I am satisfied on the evidence before me that the alleged breaches occurred. The appeal fails accordingly.

Formal decision

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

K McEntee