



Appeal Decision

by **Ken McEntee**

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

Decision date: 13 July 2020

Appeal ref: APP/L5240/L/20/1200389

- 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 Croydon Council.
- The relevant planning permission to which the CIL relates is [REDACTED]
- Planning permission was granted on 15 February 2019.
- A Liability Notice was served on the appellants on 15 February 2019.
- A Demand Notice was served on the appellants on 10 February 2020.
- The description of the development is: [REDACTED]
[REDACTED]
[REDACTED]
- The alleged breach is 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 dismissed and the surcharge is upheld.

Reasons for the decision

1. An appeal on 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 original planning permission¹ was granted on 21 June 2018. However, a separate retrospective application (the subject of this appeal) was submitted on 1 August 2018 and granted permission on 15 February 2019. As this development was CIL liable, a CN was required to be submitted before works began. The appellant argues that as the development began life as a two-storey extension and evolved into a 1 bed dwelling, he is not in breach of the Regulation as a CN was not required at the time works commenced on the principal building. However, irrespective of its original intention, the fact remains that a 1 bed extension was built without the requisite planning permission being obtained first. As the application was retrospective, it was clearly not possible for a CN to be

¹ [REDACTED]

submitted in advance of development. By carrying out development before obtaining the required planning permission, it was effectively impossible for the appellant to avoid the imposition of the surcharge.

2. Although a CN was submitted on 14 January 2020, stating a commencement date of 29 October 2018, as it was submitted some 15 months after commencement, it did not meet the requirements of Regulation 67(1) and was therefore invalid.
3. In these circumstances, I conclude that the alleged breach which led to the surcharge occurred. The appeal fails accordingly.

Formal decision

4. For these reasons, the appeal is dismissed and the surcharge of [REDACTED] is upheld.

K McEntee