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# Appeal Decision

by **Ken McEntee**

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

Decision date: 11 September 2020

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**Appeal ref: APP/C1245/L/20/1200386**

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a), and (b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Dorset Council.
- The relevant planning permission to which the surcharge relates is [REDACTED]
- Planning permission was granted on 23 May 2019.
- The description of the permission is [REDACTED]
- A Liability Notice was issued on 24 May 2019.
- A Demand Notice was issued on 10 February 2020.
- The alleged breach to which the surcharge relates is the failure to submit a Commencement Notice before commencing work 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 of [REDACTED] is upheld.**

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## The appeal under Regulation 117(1)(a)<sup>1</sup>

1. Regulation 67(1) of the CIL regulations explains that a Commencement Notice 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 informed the Council by e-mail on 21 May 2019 that he intended to start works on the development 24 May 2019. However, Regulation 67(2)(a) explains that a Commencement Notice must be submitted on a form published by the Secretary of State, or a form to substantially the same effect. Notification by email does not meet this requirement. Therefore, I am satisfied that the appellant failed to submit a Commencement Notice before starting works on the chargeable development. The appeal on this ground fails accordingly.

## The appeal under Regulation 117(1)(b)<sup>2</sup>

2. Although the appellant has appealed on this ground, it is clear that he accepts that he did receive the Liability Notice of 24 May 2019. Regulation 65(1) explains that a Liability Notice must be issued as soon as practicable after the day on which planning permission first permits development. As planning permission was granted on 23 May 2019, I am satisfied that by serving a Liability Notice only one

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<sup>1</sup> The alleged breach which led to the surcharge did not occur

<sup>2</sup> The Collecting Authority failed to serve a Liability Notice in respect of the development to which the surcharge relates

day later the Council met the requirement of Regulation 65(1). It is unfortunate that the appellant decided to press ahead with development on the day permission was granted but the Council cannot be held responsible for this decision. The fact remains that the Council served a Liability Notice as required. Therefore, the appeal under this ground must also fail.

3. It is clear that the appellant is not happy with the way the Council has dealt with matters throughout the whole planning process. However, I can only consider the appeal on the grounds made in relation to the CIL surcharge. If the appellant is unhappy with the Council's conduct 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**

4. For the reasons given above, the appeal on all grounds made is dismissed and the surcharge of [REDACTED] is upheld.

*K McEntee*