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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: 28 October 2020

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**Appeal ref: APP/A1910/L/20/1200402**

**Land at** [REDACTED]

- 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 Borough Council.
- Planning permission was granted on 16 April 2019.
- A Liability Notice was served on 25 April 2019 on the landowners at the time.
- A revised Liability Notice was served on 30 April 2019 on the landowners at the time.
- A revised Liability Notice dated 7 February 2020 was served on the appellant on 10 February 2020.
- A Demand Notice was served on 20 March 2020.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The alleged breach is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The description of the development is: "[REDACTED]"  
[REDACTED]  
[REDACTED]

**Summary of decision: The appeal is dismissed and the surcharge is upheld.**

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## Reasons for the decision

1. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. Liability Notices were served on the previous owners of the land on 25 and 30 April 2019. These notices will have been registered as a local land charge as the Council are required to do under the local land charges Act 1975. Such a charge binds the land and any purchaser or owner of the property are deemed to have knowledge of any burden attached to the land by virtue of the registration. In any event, the appellant also received a Liability Notice direct by e-mail of on 10 February 2020, some four days before works began on the chargeable development. In all these circumstances, the appeal under the ground made fails accordingly.
2. Although not relevant to an appeal under Regulation 117(1)(b), the appellant is clearly unhappy with the CIL charge and surcharge, which he considers to be harsh for the breach of failing to submit a valid Commencement Notice. For the avoidance of doubt, the CIL charge is not something before me to consider, I can

only consider the surcharge. The only way a CIL charge can be appealed is to the Valuation Office Agency (VOA) under Regulation 114, following a request to the Council for a review of the amount under Regulation 113. With regards to the surcharge, the appellant submitted a Commencement Notice on 26 January 2020 but was invalid as it did not identify the Liability Notice or state the date of commencement as required by Regulation 67(2)(b) and (c) respectively. He then submitted a revised notice dated 2 March 2020 but stating a commencement date of 14 February 2020. Regulation 67(1) explains that a Commencement Notice must be submitted no later than one before the day on which the chargeable development is to be commenced. Consequently, the Council correctly imposed a [REDACTED] in accordance with Regulation [REDACTED]

### **Formal decision**

[REDACTED] For the reasons given above, the appeal is dismissed [REDACTED]  
[REDACTED]

*K McEntee*