



Appeal Decision

by **Ken McEntee**

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

Decision date: 3 November 2020

Appeal ref: APP/M0933/L/20/1200421

- 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 South Lakeland District Council.
- Planning permission was granted on 11 January 2017.
- A Liability Notice served on 19 April 2017.
- A revised Liability Notice was served on 11 June 2020.
- A Demand Notice was served on 11 June 2020.
- The relevant planning permission to which the CIL surcharges relates is [REDACTED]
- The description of the development is: [REDACTED]
- The alleged breach that led to the surcharge is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to assume liability is [REDACTED]

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

Procedural matters

1. I note that as well as the imposition of the surcharge, the appellant is aggrieved by the withdrawal of his CIL self-build exemption. For the avoidance of doubt, I have no powers to reinstate a self-build exemption. I can only determine the appeal on the ground made in relation to the surcharge.

Reasons for the decision

2. An appeal 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 appellant contends that he submitted a CN and has provided a copy. Unfortunately, it appears the Council did not receive the notice and the appellant has not provided any proof of postage. In any event, the CN provided is invalid as it does not stipulate a commencement date as required by Regulation 67(2)(c). Instead, it simply states "A.S.A.P". While I have sympathy with the appellant, if he genuinely posted a CN in good faith, I take the view that his decision to press ahead with the development without having received an acknowledgement of

receipt was a risky strategy to take. On the evidence before me, I cannot be satisfied that a valid CN was submitted before works began on the chargeable development. Therefore, I can only conclude that the alleged breach occurred. The appeal fails accordingly.

Formal decision

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

K McEntee