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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 December 2020

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**Appeal ref: APP/W4708/L/20/1200408**

**Land at** [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by the City of Bradford Metropolitan District Council.
- Planning permission was granted on 6 September 2019.
- A Liability Notice was served on the applicant's [REDACTED] agent on 24 September 2019.
- A Demand Notice was served on the appellants on 1 May 2020.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: "Construction of 1 pair semi-detached dwellings and 1 detached dwelling".
- The alleged breaches are the failure to assume liability and to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to assume liability is [REDACTED]
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED]

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

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## Reasons for the decision

1. The appeal has been made under Regulation 117(1)(b) – that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharges relate. Regulation 65(3)(a) explains that a LN must be served on the "relevant person". The relevant person is the person who applied for planning permission. However, Regulation 126 lists the different ways that are acceptable for documents to be served. Regulation 126(1)(e) explains that "*in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address...*". In this case, the applicant's agent's e-mail address was given for electronic communications. Therefore, the Council duly sent the LN to him.
2. The appellants contend that they knew nothing about the notice and argue that a copy should have been served on them as the current landowners. However, at the time of serving the LN, it 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 owner or purchaser are deemed to have full knowledge of any burden attached to the land by virtue of the registration.

3. In these circumstances, I am satisfied on the evidence before me that a LN was correctly served by the Council in accordance with the Regulations. The appeal fails accordingly.

#### **Formal decision**

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

*K McEntee*