



Appeal Decision

by **Ken McEntee**

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

Decision date: 10 December 2020

Appeal ref: APP/C1435/L/20/1200422

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 Wealden District Council.
- Planning permission was granted on 29 November 2018.
- A Liability Notice was served on the applicants for planning permission, St Catherine's Heathfield Ltd, on 29 November 2018.
- A Liability Notice was served on the appellant on 17 June 2020
- A Demand Notice was served on the appellant on 17 June 2020.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: [REDACTED]
- [REDACTED]
- 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.

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 essentially the person who applied for planning permission. In this case, the applicants were [REDACTED] and the Council duly served a LN on them on the same day planning permission was granted. Since then, the appellant purchased the appeal site and contends he was not aware of the LN and was therefore unaware of the need to submit a Commencement Notice before starting works on the chargeable development. By the same token, he contends that his building inspectors did submit a Commencement Notice, but he has not provided a copy of the notice and the Council have no record of having received one.
2. Nevertheless, at the time the LN was served, 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