



Appeal Decision

by **Ken McEntee**

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

Decision date: 20 April 2021

Appeal ref: APP/L3815/L/20/1200448

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 Chichester District Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- Planning permission was granted on 2 August 2019.
- A Liability Notice served on 3 September 2019.
- A Demand Notice was served on 15 September 2020.
- The description of the development is: [REDACTED]
- The alleged breach to which the surcharge relates is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a commencement Notice is £ [REDACTED]

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

1. 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 no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant contends that his builders submitted a CN to the Council's Building Control Department before works began on 4 September 2019, so considers the requirement of Regulation 67(1) has been met. However, while I can understand the appellant's argument, the Building Control Department is not part of the CIL Collecting Authority and the building control system is a separate statutory regime to that of CIL, which is a very rigid and formulaic process. The necessary form needed to be submitted to the Collecting Authority for the requirement of Regulation 67(1) to be met.
3. I note that the Liability Notice explains that "*The submission of a Commencement Notice to the Council will be formally acknowledged by the Council in writing, and this acknowledgment will represent confirmation that the Commencement Notice has been submitted to the Council as required*". It goes on to explain that if no such notice is submitted, surcharges may be applied. I take the view that the

appellant's decision to press ahead with development without having received an acknowledgement was a risky strategy to take.

4. On the evidence before me I am satisfied the alleged breach occurred and therefore the appeal fails accordingly.
5. The appellant considers that the surcharge amount is disproportionate for failing to submit a CN. However, the surcharge was imposed in accordance with Regulation 83, which explains that where a chargeable development has commenced before the Collecting Authority has received a valid CN, they may impose a surcharge equal to 20% of the chargeable amount or £2,500, whichever is the lowest. The notional chargeable amount in this case would have been [REDACTED] 20% of this amount = [REDACTED], which is obviously lower than £2,500.
6. It appears clear that the appellant is concerned with the Council's processes and the way they have dealt with this particular situation. If the appellant is unhappy with the Council's conduct in this matter 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

7. For the reasons given above, the appeal is dismissed and the surcharge of [REDACTED] is upheld.
- 8.
9. K McEntee