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# Appeal Decision

**by Ken McEntee**

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 17 July 2023

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**Appeal ref: APP/Q3115/L/23/3321163**

**Land adjacent to** [REDACTED]  
[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 South Oxfordshire District Council.
- The relevant planning permission to which the CIL surcharge relates is P21/S2755/FUL.
- Planning permission was granted on 22 October 2021.  
The description of the development is: "[REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]".
- A Liability Notice served on 6 January 2023.
- A Demand Notice was served on 30 March 2023.
- 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 submit a Commencement Notice is [REDACTED].

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

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## Procedural matters

1. The appellant hasn't marked a box on the appeal form to indicate on which ground he would like to appeal as he doesn't feel there is one suitable. As it is not possible to determine an appeal that is not made on one of the grounds listed in Regulations 117, 118 or 119, I have decided that it would be appropriate to determine this appeal under Regulation 117(1)(a) without causing injustice to either party.

## 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. In this case, the appellant concedes that he failed to submit a Commencement Notice but contends that this was simply a genuine oversight as he mistakenly thought the development type meant he was exempt from doing so. He therefore requests that leniency be shown and the surcharge be waived. However, while I have sympathy with the appellant and in no way

wish to appear dismissive if he made a genuine mistake, I'm afraid I have no authority to consider mitigation and can only determine the appeal on the factual evidence before me. With that in mind, it is a matter of fact that a Commencement Notice was not submitted before works began on the chargeable development as required by Regulation 67(1). In these circumstances, I have no option but to dismiss the appeal.

**Formal decision**

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

*K McEntee*