



Appeal Decision

by Ken McEntee

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

Decision date: 9 November 2023

Appeal ref: APP/D1590/L/23/3329878

- 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 Southend-on-Sea City Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 7 April 202.
- The description of the development is: [REDACTED].
- A Liability Notice was served on 27 April 2021.
- A Demand Notice was served on 4 August 2023.
- A revised Demand Notice was served on 11 September 2023.
- The alleged breach is the failure to pay the CIL charge within 30 days after the due date.
- The outstanding surcharge for late payment of the CIL is [REDACTED].

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

Reasons for the decision

1. 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 contends that the reason for the delay was that the Collecting Authority (Council) led him to believe that the CIL would be put on hold while they were in negotiations to try and settle things before going to appeal. However, the Council deny that any such agreement was made and that the appellant was reminded of his right to appeal in more than one form of correspondence. The appellant has not taken the opportunity to respond to the Council's comments.
2. Irrespective of what discussions may or may not have taken place before the appeal was submitted, I can only determine the appeal on the facts before me. With that in mind, the CIL charge was initially due to be paid within 60 days of the Liability Notice, which was served on 27 April 2021. However, as works commenced on the chargeable development without a Commencement Notice having been submitted in accordance with Regulation 67(1), the CIL charge became due in full, with immediate effect. As no such payment was received at the time of commencement, the Council were entitled to impose a late payment surcharge.

3. In the circumstances described, and on the evidence before me, I am satisfied that the alleged breach occurred as a matter of fact. The appeal fails accordingly.
4. If the appellant is unhappy with the way the Collecting Authority (Council) has dealt with this matter or has concerns about the Council's conduct 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

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

K McEntee