



Appeal Decision

by Ken McEntee

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

Decision date: 7 February 2024

Appeal ref: APP/X0360/L/23/3332903

Land at [REDACTED]

- The appeal is made under Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against CIL surcharges imposed by Wokingham Borough Council.
- The relevant planning permission to which the surcharges relate was granted on appeal (APP/X0360/W/20/3245834) on 20 July 2020 in relation to application [REDACTED].
- The description of the development is [REDACTED].
- A Liability Notice was served on the applicant for planning permission, [REDACTED], on 22 February 2021.
- A Demand Notice was served on the appellant on 12 October 2023.
- The alleged breaches to which the surcharges relate are the failure to assume liability and to the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to assume liability is [REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].

Summary of decision: The appeal is dismissed.

Procedural matters

1. I note that the appellant accepts the [REDACTED] surcharge for the failure to assume liability, so the appeal before me is solely in relation to the surcharge for the alleged breach of failing to submit a Commencement Notice before starting works on the chargeable development.

Reasons for the decision

2. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. In this case, a Liability Notice was sent to the applicant for planning permission and landowner at the time, [REDACTED], on 22 February 2021. As the Council correctly points out from previous appeal decisions cited, as the Liability Notice was registered as a local land charge at the time it was served, which the Council are obliged to do under the local land charges Act 1975, such a charge binds the land, and any purchaser or owner of the property are deemed to have full knowledge of any burden attached to the land by virtue of the registration. Regulation 117 is not personalised for this reason. Therefore,

the appellant should have been aware of the CIL responsibilities and procedures as explained in the Liability Notice, such as the need to submit a Commencement Notice before starting works on the chargeable development. The Council were therefore not required to serve a further Liability Notice directly to him. Once works commenced, the appellant became liable for CIL and CIL surcharges with immediate effect.

3. On the evidence before me, I am satisfied that a Liability Notice was correctly served. The appeal fails accordingly.
4. I note that the appellant appears to be under the impression that late payment interest has been added to the surcharge. However, the last page of the Demand Notice clearly states that "No late payment interest has been applied".

Formal decision

5. For the reasons given above, the appeal on the ground made is dismissed and the surcharge of [REDACTED] for failing to submit a Commencement Notice before starting works on the chargeable development is upheld.

K McEntee