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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: 21 March 2024

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**Appeal ref: APP/J4423/L/23/3336635**

**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 Sheffield City Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: "[REDACTED]".
- Planning permission was granted on 29 August 2023.
- A Liability Notice served on 31 August 2023.
- A Demand Notice was served on 5 December 2023.
- 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 failure to submit a Commencement Notice is [REDACTED].

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

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## Reasons for the decision

1. An appeal under Regulation 117(1)(a) is that the alleged breach that led to the surcharge did not occur. Regulation 67(1) of the CIL regulations explains that a Commencement Notice (CN) must be submitted to the Collecting Authority (Council) no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant insists that he sent a CN on the day before development was due to commence, which was 17 November 2023, but he cannot provide any proof of postage. Nevertheless, the Council did receive the CN but not until 27 November 2023. However, as the Council point out, the CN is dated 17 November 2023, which is the same date of the stated commencement. Therefore, this renders the CN invalid as it was not submitted no later than the day before the day commencement of the chargeable development took place as required by Regulation 67(1). That being the case, I can only conclude that the alleged breach occurred. The appeal fails accordingly.
2. I note that the appellant raises concerns about the Council's CIL guidance. If the appellant is unhappy with the Council's adopted procedures or their conduct in this matter, he may wish to make a complaint through the Council's established complaints process in accordance with local government accountability.

**Formal decision**

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

*K McEntee*