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# Appeal Decision

**Decision by A U Ghafoor BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 April 2024

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**Appeal Ref: APP/R5510/L/24/3337714**

- The appeal is made under section 218 of the Planning Act 2008 and section 117(a) and (b) of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL 2010).
  - The appeal is made by [REDACTED] on behalf of [REDACTED] against a Demand Notice (the 'DN') issued by the Council of the London Borough of Hillingdon, the Collecting Authority (CA).
  - The relevant planning permission to which the CIL relates is [REDACTED].
  - The description of the development is described on the DN as follows: [REDACTED]  
[REDACTED]
  - A Liability Notice (the 'LN') was served on 2 February 2022. The total amount of CIL payable is [REDACTED].
  - The DN was issued on 9 January 2024. The following surcharges were imposed: [REDACTED] for a failure to submit a commencement notice (hereinafter 'CN'). The total amount payable is [REDACTED].
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## Decision

1. The appeal is dismissed, and the surcharge upheld.

## Reasons for the Recommendation

2. The appeal is made on the following grounds:
  - (a) that the alleged breach which led to the surcharge did not occur.
  - (b) that the CA failed to serve a LN in respect of the development to which the surcharge relates.

### Ground A

3. Section 83(1) (CIL 2010) sets out that where a chargeable development has commenced before the CA has received a valid CN in respect of the chargeable development then the CA may impose a surcharge equal to 20 per cent of the chargeable amount payable or [REDACTED], whichever is the lower amount.
4. The appellant states that they emailed the CA their intention to start work on 13 September 2022. However, an email does not comply with the criteria for a valid CN as set out in section 67(2)(a). The planning permission decision letter clearly states that '*Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed.*'
5. The appellant did submit a valid CIL 6 form on 2 January 2024 stating that development started on 18 October 2022. However, such a sequence of events is contrary to section 67(1) CIL 2010, which requires a CN must be submitted to the CA no later than the day

before the day on which the chargeable development is to be commenced. Consequently, I find that the alleged breach which led to the surcharge did occur.

*Ground B*

6. The challenge is that the CA failed to serve a LN in respect of the development to which the surcharge relates. The LN was served on the applicant for the chargeable development, [REDACTED], on 2 February 2022 by post to the address given in the planning application in accordance with section 126(1)(b)(c) CIL 2010. I understand that the appellant in this case is not [REDACTED].
7. However, the LN 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. The wording of section 117(1)(b) CIL 2010 is not personalised for this reason. Therefore, I am satisfied that a LN was correctly served by the CA and consequently the appellant should have been aware of the CIL responsibilities and procedures as explained in the notice, such as the need to submit a CN before starting works on the development.

**Conclusion and Recommendation**

8. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed, and the surcharge upheld.

*S. Wilson*

APPEAL PLANNING OFFICER

**Inspector's Decision**

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed and the surcharge upheld.

*A U Ghafoor*

INSPECTOR