



Appeal Decision

by Ken McEntee

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

Decision date: 15 May 2024

Appeal ref: APP/Q5300/L/24/3336896

Land at [REDACTED]

- The appeal is made under Regulations 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against CIL surcharges imposed by the London Borough of Enfield.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- The description of the development is: [REDACTED]
[REDACTED]
[REDACTED]
- Planning permission was granted on 8 June 2021.
- A Liability Notice was issued on 23 June 2021.
- A revised Liability Notice was issued on 21 December 2023.
- A Demand Notice was issued on 10 January 2024.
- The alleged breaches are the failure to assume liability, to submit a Commencement Notice before starting works on the chargeable development, and to pay the CIL by the due date.
- The outstanding surcharge for failing to assume liability is [REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The outstanding surcharges for failing to pay the CIL by the due date totals [REDACTED].

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

Reasons for the decision

1. The appeal is made on the ground that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharges relate. In accordance with Regulation 126(e), the Council are entitled to serve documents by electronic means where an e-mail address has been given. In this case, the Council point out that they sent the LN to the appellant's architect/agent ([REDACTED]) by e-mail on 23 June 2021 and copied in the appellant. It would appear from the evidence that the Council understandably used the e-mail address for the appellant that was given in the planning application form ([REDACTED]). Unfortunately, it appears this address was incorrectly input as the correct address is actually [REDACTED], so the appellant did not receive the e-mail.
2. Regulation 65(3)(a) states that the LN must be served on the "relevant person", and 65(12) explains what "relevant person" means. (12)(c) states "in all other cases, the person who applied for planning permission". As the architect completed the application, I am satisfied that the LN was correctly served on him. The appellant feels that the LN should have been sent directly to her. However,

there is nothing in the Regulations that stipulates who the lead addressee on an e-mail serving a LN should be. Even if the appellant had been the lead addressee in this case, it is clear that she would not have received the e-mail in any event. However, had the correct e-mail address been input on the application, there is no doubt the appellant would have received the e-mail with the attached LN that was sent to her architect as she was copied in.

3. Therefore, while I have sympathy with the appellant in this situation, I can only suggest that she may wish to take the matter up with her architect.
4. On the evidence before me, I am satisfied that the Council did not fail to serve a LN in respect of the development to which the surcharges relate. The appeal fails accordingly.

Formal decision

5. For the reasons given above, the appeal on the ground made is dismissed and the surcharges of [REDACTED], [REDACTED] and [REDACTED] are upheld.

K McEntee