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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: 31 October 2024

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**Appeal ref: APP/G3300/L/24/3340795**

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(b) and 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Somerset Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 23 August 2023.
- The description of the development is: "[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]".
- A Liability Notice was served on 9 January 2024.
- A Demand Notice was served on 9 January 2024.
- A revised Demand Notice was served on 19 February 2024.
- The alleged breach that led to the surcharge is the late payment of the CIL after 30 days of the due date.
- The outstanding late payment surcharge is £[REDACTED].
- The determined deemed commencement date given in the Demand Notice is 22 September 2023.

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

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## Procedural matters

1. For the avoidance of doubt, I have no powers to re-instate a payment plan or to quash any interest imposed. I can only determine the appeal on the grounds made solely in relation to the surcharge imposed.

## The appeal under Regulation 117(1)(b)

2. An appeal under this ground is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. It appears clear from the evidence produced by the Council that a Liability Notice was sent and delivered, along with the original Demand Notice and other CIL correspondence, to the appellant's e-mail address. Regulation 126 explains the options open to the Council for service of documents. Regulation 126(1)(e) states "*in a case where an address for service using electronic communications has been given by that person, by sending it to that person at that address...*". In this case, [REDACTED] was the address given in the planning application of 21 November 2022 and therefore the Council correctly sent

the Liability Notice to that address. The Council were under no obligation to also serve the Liability Notice by standard post.

3. I note that the appellant contends he was not aware of the e-mails sent by the Council until it was too late as they unfortunately ended up in his spam folder. While I have sympathy with the appellant if this was the case, I can only determine whether or not the Council issued a Liability Notice. On the evidence before me, I am satisfied they did so. The appeal under this ground fails accordingly.

### **The appeal under Regulation 118**

4. An appeal under this ground is that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. Although such an appeal has been made, the appellant has not submitted any arguments or evidence to support it, or stated what he considers to be the correct date. Instead, he has simply repeated the point about e-mails going to his spam folder. Therefore, I can only assume that the appeal under this ground was made in error, and I have no reason before me to believe that the deemed commencement date of 22 September 2023 has been incorrectly determined. The appeal under this ground also fails accordingly.
5. It appears clear that the appellant is not happy with the way the Council has dealt with this matter. However, if the appellant has concerns about the Council's conduct or their adopted procedures, I can only suggest that he may wish to make a complaint through the Council's established complaints process in accordance with local government accountability.
6. I also note that the appellant would like to see changes to the CIL regulations. This is a matter that he may wish to take up with his local MP.

### **Formal decision**

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

*K McEntee*