



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 January 2025

Appeal ref: APP/D1780/L/24/3352382

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Southampton City Council.
- Planning permission was granted on 17 November 2023.
- A Liability Notice was issued on 23 November 2023.
- A Demand Notice was issued on 3 September 2024.
- The relevant planning permission to which the CIL surcharges relate is [REDACTED].
- The description of the development is: "[REDACTED]".
- The alleged breaches to which the surcharges relate are the failure to assume liability and the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for the failure to assume liability is £[REDACTED].
- The outstanding surcharge for failure to submit a Commencement Notice is £[REDACTED].

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

Reasons for the decision

1. The appeal has been made under Regulation 117(1)(b) – that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharges relate. Regulation 65(3)(a) explains that a LN must be served on the "relevant person". The relevant person is the person who applied for planning permission. However, Regulation 126 lists the different ways that are acceptable for documents to be served. Regulation 126(1)(e) explains that "*in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address...*". In this case, the appeal is based on the contention that the Council erred by failing to copy in the appellant's agent, in line with previous correspondence, when sending the LN directly to the appellant. However, it appears clear from the evidence provided that although a copy of the LN was sent to the appellant by e-mail of 23 November 2023 to the address given in the planning application form, the agent was in fact also copied into that e-mail at his address that was also given in the application form. Therefore, it appears clear that the Council were diligent in ensuring that the LN was served on the relevant person one way or another.

2. In these circumstances, I am satisfied on the evidence before me that a LN was correctly served by the Council in accordance with the CIL Regulations. The appeal fails accordingly.

Formal decision

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

K McEntee