

## Appeal Decision

**by Ken McEntee**

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

**Decision date: 19 March 2025**

**Appeal ref: APP/X4725/L/24/3353582**

\_\_\_\_\_.

- The appeal is made under Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Wakefield Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- The description of the development is: "[REDACTED]  
[REDACTED]  
[REDACTED]".
- Planning permission was granted 18 January 2017.
- A liability Notice was served on 19 January 2017.
- A revised Liability Notice was served on 25 September 2024.
- A Demand Notice was served on 25 September 2024.
- The alleged breach that led to the surcharge is the failure to notify the Charging Authority of a 'disqualifying event' for self-build CIL relief.
- The outstanding surcharge is £[REDACTED].

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

## Procedural matters

1. For the avoidance of doubt, I can only determine this appeal in relation to the CIL surcharge alone. I have no authority to quash or amend the CIL charge of £[REDACTED]. This can only be done by way of a successful appeal to the Valuation Office Agency in accordance with CIL Regulation 114.
2. Although the appeal is in the name of [REDACTED] and [REDACTED], as the Demand Notice was only served on [REDACTED], as the person who assumed liability, he is the only valid appellant.

### Reasons for the decision

3. An appeal under Regulation 117(1)(a) is that the alleged breach which led to the surcharge did not occur. The alleged breach is the failure to notify the Charging Authority (Council) of a disqualifying event for CIL exemption; namely, the fact that the appellant did not occupy the premises. In order to qualify for CIL self-build exemption, the premises needed to be occupied by the appellant as his sole or main residence for a period of 3 years from completion of the property. The appellant signed the Declaration in the Self Build Exemption application (Form 7)

that he understood this to be the case. Regulation 54(D)(4) specifies that “*the relevant person must notify the collecting authority in writing of the disqualifying event before the end of 14 days beginning with the day on which the disqualifying event occurs*”. The appellant does not refute that he did not notify the Council but explains the reason he did not live in the property was that he and his wife had separated, and that his failure to inform the Council was an oversight and not intentional.

4. While I sympathise with the appellant if this was the case, I can only determine the appeal on its facts in accordance with the CIL Regulations and cannot consider mitigation. With that in mind, it is a matter of fact that the appellant failed to notify the Council of the disqualifying event and therefore I can only conclude that the alleged breach occurred. The appeal fails accordingly.

### **Formal decision**

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

*K McEntee*