



Appeal Decision

by Ken McEntee

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

Decision date: 1 May 2025

Appeal ref: APP/Q3630/L/24/3353785

- The appeal is made under Regulation 117(1)(a) and (b) and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Runnymede Borough Council.
- The relevant planning permission to which the CIL relates is [REDACTED].
- Planning permission was granted on 14 April 2023.
- The description of the development is "[REDACTED]".
- A Liability Notice was served on the previous owner of the site ([REDACTED]) on 16 May 2023.
- A Demand Notice was served on the appellant on 30 September 2024.
- The alleged breaches to which the surcharges relate are the failure to assume liability, the failure to submit a Commencement Notice before starting works on the chargeable development, and failure to pay the CIL within 30 days, 6 months and 12 months of 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 late payment surcharges total £[REDACTED] ([REDACTED]).
- The determined deemed commencement date given in the Demand Notice is 1 June 2023.

Summary of decision: The appeal is allowed and the surcharges are quashed.

The appeal under Regulations 117(1)(a)¹ and (b)²

1. I shall address the appeal on ground 117(1)(b) first as it impacts on the appeal on ground 117(1)(a).
2. The Council contend that they served a Liability Notice (LN) on the owner of the land at the time in accordance with Regulation 65(3)(a). This explains that a LN must be served on the "relevant person". Regulation 65(12) gives three examples of what "relevant person" means; they are: (a) In the case of a general consent, the person who has submitted a notice of chargeable development, (b) in the case of planning permission granted subject to a condition requiring that further approval is obtained before commencing development, the person who has applied for that approval, and (c) on all other cases, the person who applied for planning permission. The person who applied for planning permission in this case is [REDACTED]

¹ That the alleged breaches that led to the surcharges did not occur.

² That the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharges relate.

██████████. Therefore, he/they were the “relevant person”, and a LN should have been served on him/them via their agent, ██████████ of ██████████ as the applicants’ address is given as “C/O Agent”. The agent’s address can be found under ‘Agent Details’ and their e-mail address is given under ‘Contact Details’. While service on the landowner (██████████) at the time satisfied Regulation 65(3)(c) in that a LN is required to be served on each person known to the authority as an owner of the relevant land, service also needed to be made on the “relevant person” in order to satisfy Regulation 65(3)(a).

3. The Council argue that the appellant should have been aware of the LN as it was registered as a local land charge on 17 May 2023. However, as this was only 2 days before the purchase of the appeal property was completed, I consider the appellant makes a reasonable contention that the pre purchase searches did not show up the local land charge as they were already completed by 17 May 2023. In any event, while the Council’s argument would normally be pertinent if the LN had been served on the “relevant person”, as that did not happen here the argument does not carry weight. CIL is a very rigid and formulaic process; the “relevant person” having knowledge by other means does not act as a substitute for the required LN, which acts as the trigger for a Commencement Notice to be submitted before works are begun on the chargeable development and provides payment details. Similarly, although the assumption of liability request of 17 April 2023 was addressed to ██████████, it was sent to the appeal property rather than his agent’s postal or e-mail address as per the planning application form. Therefore, irrespective of the fact that the appellant is a director of ██████████, he was not responsible for failure to assume liability, to submit a Commencement Notice or for late payment of the CIL.
4. On the evidence before me therefore, I conclude that the LN was not correctly served and consequently the alleged breaches which led to the surcharges did not occur. The appeal under Regulations 117(1)(a) and (b) succeed accordingly.

The appeal under Regulation 118³

5. In view of my findings above, the appeal on this ground is somewhat academic. Nevertheless, I shall address it in the interest of completeness.
6. The determined deemed commencement date given in the Demand Notice is 1 June 2023. However, the appellant argues, and has provided photographic evidence dated 12 May 2023, that demolition works had already begun on the site. Therefore, in view of this evidence and on the balance of probabilities, I conclude that the determined deemed commencement date of 1 June 2023 is incorrect, and the correct date is more likely to be 28 April 2023 as asserted by the appellant. The appeal under Regulation 118 also succeeds accordingly and the Demand Notice ceases to have effect.

Formal decision

7. For the reasons given above, the appeal under all three grounds is allowed and the surcharges of £██████, £██████ and £██████ are quashed.

K McEntee

³ That the Council has issued a demand Notice with an incorrectly determined deemed commencement date.