



Appeal Decision

by Ken McEntee

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

Decision date: 21 May 2025

Appeal ref: APP/M1520/L/24/3355234

- The appeal is made under Regulations 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Castle Point Borough Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 2 July 2024.
- The description of the development is "[REDACTED]".
- A Liability Notice was served on 4 July 2024.
- A Demand Notice was served on 16 July 2024.
- A revised Demand Notice was served on 7 October 2024.
- The alleged breach that led to the surcharge is the failure to pay the CIL within 30 days of the due date.
- The outstanding late payment surcharge is £[REDACTED].

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

Procedural matters

1. The appeal has been made under Regulation 117(1)(a) - that the alleged breach which led to the surcharge did not occur. However, it appears clear that the main purpose of the appeal is to contest the imposition of the overall CIL charge as the appellants believe that it has been incorrectly calculated by the Charging Authority (Council) due to incorrect measurements and the development is therefore not CIL liable. For the avoidance of doubt, this is not an issue that is within my authority to determine. The only way the CIL charge can be reviewed is by way of an appeal to the Valuation Office Agency in accordance with Regulation 114. I note that such an appeal was submitted but was turned away as it was made out of time. I can only determine the appeal before me on the ground made in relation to the surcharge.

Reasons for the decision

2. The Demand Notice of 16 July 2024 makes clear that as development was deemed to have commenced, the CIL payment was due immediately. It also explains that failure to pay the amount within 30 days may lead to a late payment surcharge being imposed. As no such payment was made within that period the Council were entitled to impose the relevant surcharge. The appellants contend that the reason why no payment was made was because they were in discussions with the

Council and other parties disputing the CIL. However, such discussions do not stop the clock on the CIL payment, unless the Council agree to do so. There is no evidence before me of any such agreement being in place. Therefore, I can only conclude that the alleged breach which led to the surcharge occurred as a matter of fact. The appeal fails accordingly.

Formal Decision

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

K McEntee