



Appeal Decision

by Ken McEntee

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

Decision date: 26 June 2025

Appeal ref: APP/J4423/L/24/3355855

- 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 CIL surcharges imposed by Sheffield City Council.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- Planning permission was granted on 26 April 2019.
- The description of the development is "[REDACTED]
[REDACTED]
[REDACTED]".
- A Liability Notice was served on 14 October 2024.
- A Demand Notice was served on 28 October 2024.
- The alleged breaches that led to the surcharges 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 failing to assume liability is £[REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is £[REDACTED].
- The determined deemed commencement date given in the Demand Notice is 7 October 2019.

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

Procedural matters

1. For the avoidance of doubt, I have no powers to determine whether or not the CIL charge of £[REDACTED] was correctly imposed. This can only be done by way of an appeal to the Valuation Office Agency in accordance with Regulation 114. I also have no authority to quash late payment interest. I can only determine the appeal solely in relation to the CIL surcharges.
2. The appellant argues that the planning permission [REDACTED] was not CIL liable as it was approved when no CIL charging schedule was in place, which was confirmed by the Liability Notice (LN) in relation to planning permission [REDACTED]. However, the Council explain that the text in that notice was incorrect due to an IT system error, and a charging schedule had in fact been in place since 15 July 2015. A revised LN in relation to that permission was subsequently served on 21 November 2024.

The appeal under Regulation 117(1)(a) and 117(1)(b)

3. Appeals under these grounds are that the alleged breaches which led to the surcharges did not occur, and that the Collecting Authority (Council) failed to serve a LN in respect to the development to which the surcharges relate. I shall address the latter first. The Council contend that they originally served a LN on 9 May 2019, which was as soon as practicable after the date of the decision, but state that there is no longer any postal evidence of this available due to their retention timescales. The Council does not state whether the LN was served electronically or by post, but without any proof of delivery or postage for either method, I cannot be satisfied that an LN was served on 9 May 2019. I note that the Council refer to the fact that the date of issue of the LN can be found on part 1 of the Land Register. However, while this may demonstrate that a LN was produced, it does not demonstrate that one was actually served. An LN acts as the trigger for a Commencement Notice (CN) to be submitted before works are begun on the chargeable development. Without it, it was not possible for a valid CN to be submitted as it requires the relevant LN to be identified in accordance with Regulation 67(2)(b).
4. While a revised LN of 14 October 2024 was received by the appellant, this was some five and a half years after planning permission was granted, which cannot be described as being served as soon as practicable after the day on which a planning permission first permits development as required by Regulation 65(1).
5. On the evidence before me therefore, and on the balance of probabilities, I cannot be satisfied that a timely LN was served; the result of which was to effectively deprive the appellant of the opportunity to submit the necessary forms and thus prevent being liable for subsequent surcharges. In these circumstances, I cannot conclude that the alleged breaches occurred. Accordingly, the appeal succeeds on both these grounds.

The appeal under Regulation 118

6. An appeal under this ground is that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The date given in the Demand Notice is 7 October 2019. Although an appeal had been made on this ground, the appellant has not stated what the correct date should be. Therefore, on the evidence before me, I have no reason to believe that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal under this ground therefore fails.

Formal Decision

7. For the reasons given above, the appeal is allowed under Regulation 117(1)(a) and (b) and the surcharges of £[REDACTED] and £[REDACTED] are quashed, but the appeal under Regulation 118 is dismissed.

K McEntee