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# Appeal Decision

by Ken McEntee

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

Decision date: 3 June 2025

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**Appeal ref: APP/F1610/L/24/3355338**

- The appeal is made under Regulations 117(1)(a) and (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Cotswold District Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 2 November 2021.
- The description of the development is "[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]".
- A Liability Notice was served on 3 November 2021.
- A Demand Notice was served on 8 November 2024.
- The alleged breach that led to the surcharge is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a Commencement Notice is £[REDACTED].

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

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## The appeal under Regulation 117(1)(a)

1. An appeal under this ground is that the alleged breach which led to the surcharge did not occur. The appellant does not refute that he failed to submit a Commencement Notice (CN) but points to an e-mail exchange with the Collecting Authority (Council) where he asked which forms he needs to submit to officially inform the planning department that he is looking to proceed with building works straight away. The Council responded by advising that he did not need to do anything further with the planning department as far as the application and listed building consent are concerned but may need Building Regulations. In response to the appeal, the Council point out that the need to submit a CN (Form 6) before commencing works on the chargeable development was made clear in the Liability Notice and the Additional Information Notice (Form 1), and both warned of the potential consequences of failing to do so. While this is correct, I have to say I am somewhat surprised that the Council did not explain this in their reply to the appellant's e-mail of 1 October 2024. Therefore, I have some sympathy with the appellant as had the Council responded accordingly, he may well have submitted a CN and avoided the subsequent surcharge.

2. Nevertheless, the fact remains that it was the appellant's responsibility to ensure a CN was submitted before starting works on the chargeable development, as was made clear in the Liability Notice. Therefore, I conclude that the alleged breach that led to the surcharge occurred as a matter of fact. The appeal on this ground fails accordingly.

### **The appeal under Regulation 117(1)(c)**

3. An appeal under this ground is that the surcharge has been calculated incorrectly. However, the appellant has not offered any evidence as to why he believes this to be the case, and it appears clear it is more a case that he believes the surcharge should not have been imposed at all, which is an issue I have addressed above. Nevertheless, as the Council point out, Regulation 83 explains that where a chargeable development is commenced before the Council has received a valid CN, the Council may impose a surcharge equal to 20% of the chargeable amount or £[REDACTED], whichever is the lower amount. The CIL amount in this case without an exemption would be £[REDACTED] and 20% of this amount equals £[REDACTED]. Therefore, it is clear that this is the lower amount and consequently I am satisfied that the Council has not incorrectly calculated the surcharge. The appeal on this ground also fails accordingly.

### **Formal Decision**

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

*K McEntee*