



Appeal Decision

by Ken McEntee

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

Decision date: 9 July 2025

Appeal ref: APP/C1245/L/24/3358210

- [REDACTED]
- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
 - The appeal is brought by [REDACTED] against a surcharge imposed by Dorset Council.
 - The relevant planning permission to which the CIL surcharge relates is [REDACTED].
 - Planning permission was granted on 4 October 2023.
 - The description of the development is: "[REDACTED]
[REDACTED]
[REDACTED]".
 - A Liability Notice was served on 3 December 2024.
 - A Demand Notice was served on 3 December 2024.
 - A revised Liability Notice was served on 16 January 2025.
 - A revised Demand Notice was served on 16 January 2025.
 - The alleged breach to which the surcharge relates is the failure to submit a Commencement Notice before starting works on the chargeable development.
 - The outstanding surcharge for failure to submit a Commencement Notice is £[REDACTED].

Summary of decision: The appeal is allowed but the surcharge is upheld.

Reasons for the decision

1. The appeal has been made under Regulation 117(1)(b) – that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharge relates. The Council accept that a LN was not served at the time planning permission was granted due to a system error, but they eventually served one on 3 December 2024, followed by a revised notice on 16 January 2025. Regulation 65(1) explains that the Council must issue a LN as soon as practicable after the day on which a planning permission first permits development. The LN in this case was served some 14 months after planning permission was granted, which cannot reasonably be interpreted as "as soon as practicable". Therefore, in these circumstances I consider the appeal should be allowed on the ground made as a LN was not served in accordance with Regulation 65(1).
2. However, in the normal course of events an LN acts as the trigger for a Commencement Notice to be submitted before works are begun on the chargeable development, but in this case, as the development was part retrospective it was simply not possible for this to happen. It was therefore not possible for the appellant to prevent the imposition of the subsequent surcharge. In other words,

by starting development without first obtaining the required planning permission, this was effectively a situation of the appellant's own making. As the Council point out, the appellant was automatically liable for the surcharge irrespective of when the LN was served. Therefore, while I am allowing the appeal, I do not consider it appropriate to use my powers under Regulation 117(4) to quash the surcharge.

Formal decision

3. For the reasons given above, the appeal is allowed on the ground made but the surcharge of £[REDACTED] is upheld.

K McEntee