



Appeal Decision

by Ken McEntee

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

Decision date: 3 July 2025

Appeal ref: APP/X3540/L/24/3358595

- The appeal is made under Regulations 117(1)(a) and (b) and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by East Suffolk Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 1 November 2024.
- The description of the development is "[REDACTED]".
- A Draft Liability Notice was served on 12 November 2024.
- A Default Liability Notice was served on 13 November 2024.
- A Demand Notice was served on 13 November 2024.
- A revised Demand Notice was served on 27 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].
- The determined deemed commencement date given in the Demand Notice is 13 November 2024.

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

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

1. The Charging Authority (Council) imposed the surcharge as they believe works had started on the development before a Commencement Notice (CN) was submitted. It appears clear that the reason for this is that the Council found, mainly from photographic evidence, that part of the ground floor linking corridor between the buildings had been demolished. As demolition of the link formed part of the planning permission, the Council concluded that works had commenced on the chargeable development. However, although the appellant accepts that the demolition of the link took place, he argues that he was entitled to carry out such work under permitted development rights and therefore a material operation in relation to the planning permission has not taken place.
2. I acknowledge the appellant's argument, but bearing it in mind, it is not clear why he included the demolition works within the description of the proposed development in the application form of 23 July 2024. Having done so, it is a

¹ The claimed breach which led to the surcharge did not occur

matter of fact that demolition of the link formed part of what was applied for and subsequently what was granted planning permission. Therefore, I am satisfied that the Council were correct to conclude that a material operation had taken place in relation to that planning permission. As a valid CN had not been submitted as required by Regulation 67(1), the Council were entitled to impose the relevant surcharge in accordance with Regulation 83. Although a CN was submitted on 21 November 2024 with a stated commencement date of 25 November 2024, this was submitted after the demolition works had taken place. Therefore, I conclude that the alleged breach which led to the surcharge occurred. The appeal on this ground fails accordingly.

The appeal under Regulation 117(1)(b)²

3. Although an appeal has been made on this ground, no supporting arguments have been submitted and I note that the appellant has provided copies of both the draft and default Liability Notices with his appeal documents. Therefore, I can only assume that this ground of appeal was made in error. The appeal on this ground fails accordingly.

The appeal under Regulation 118³

4. The determined deemed commencement date given in the Demand Notice is 13 November 2024. However, rather than the date of commencement, it is clear that the appellant's case is more that works had not commenced at all at the time the original Demand Notice was issued as he believes the demolition of the links did not constitute commencement of the chargeable development. However, I have addressed and concluded on this issue in paragraph 2 above. The appeal on this ground also fails accordingly.

Formal Decision

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

K McEntee

² The Collecting Authority failed to serve a Liability Notice in respect of the development to which the surcharge relates

³ The Collecting Authority has issued a demand notice with an incorrectly determined deemed commencement date.