



Appeal Decision

by **Ken McEntee**

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

Decision date: 4th December 2025

Appeal ref: APP/R3650/L/25/3364513

- The appeal is made under Regulation 117(1)(b) and (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Waverley Borough Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- The description of the development is: [REDACTED].
- Planning permission was granted on 7 October 2019.
- Liability, Demand and Self-Build Relief Claim Decision Notices were served on 20 November 2019.
- Revised Liability and Demand Notices were served on 26 March 2025.
- The alleged breaches that led to the surcharges are the failure to notify the Charging Authority of a 'disqualifying event' for self-build CIL relief within 14 days, and the failure to pay the CIL within 30 days and 6 months of the due date.
- The outstanding surcharge for failure to notify the Council of a 'disqualifying event' is [REDACTED].
- The outstanding surcharge for failure to pay the CIL within 30 days is [REDACTED].
- The outstanding surcharge for failure to pay the CIL within 6 months is [REDACTED].

Summary of decision: The appeal under Regulation 117(1)(b) is dismissed but the appeal under Regulation 117(1)(c) is allowed in part.

The appeal under Regulation 117(1)(b)

1. An appeal under this ground is that the Collecting Authority (Council) failed to submit a Liability Notice (LN) in respect of the development to which the surcharges relate. However, it appears from the appellant's final comments of 23 June 2025 that he accepts a LN was in fact served by the Council in November 2019, and I note that the evidence submitted by the Council, such as the relevant e-mail, clearly supports this. The appeal under Regulation 117(1)(b) therefore fails accordingly.

The appeal under Regulation 117(1)(c)

2. An appeal under this ground is that the surcharges have been incorrectly calculated. While I am satisfied the surcharge of [REDACTED] for failing to notify the Council of a 'disqualifying event' has been correctly calculated in accordance

with Regulation 84, I consider that the Council have slightly miscalculated the two late payment surcharges.

3. Regulation 85(1)(a) and (b) explains that a person is liable to pay a CIL amount (A), and if that amount is not received in full at the end of 30 days, beginning on the day in which it is due, the Council may impose a surcharge equal to 5% of the amount due or [REDACTED] whichever is the greater. The CIL amount (A) in this case is [REDACTED] and 5% of this amount = [REDACTED]. However, as the surcharge imposed is [REDACTED], it appears clear that the Council reached this figure by adding the surcharge for failure to notify them of a 'disqualifying event' onto the CIL amount, then calculated 5% of that total. I take the view that this is not the proper calculation process and the correct interpretation of Regulation 85(1)(a) and (b) is that the surcharge for the failure to pay A [REDACTED] within 30 days of the due date is solely payable in relation to that amount. However, other surcharges can be added to any unpaid amount after 6 and 12 months in accordance with Regulation 85(2) and (3). In other words, A, plus related surcharges, plus 5%. Therefore, it follows that I consider both late payment surcharges to be incorrect, albeit the latter by a small amount. I shall recalculate them in accordance with Regulation 117(4).
4. As stated above, I calculate the correct surcharge for failure to pay the CIL amount within 30 days of the due date to be [REDACTED]. Therefore, I calculate the correct surcharge for late payment within 6 months to be [REDACTED]. The appeal under Regulation 117(1)(c) therefore succeeds in part.

Other matters

5. While the appeal has been made on the grounds addressed above, it appears that the main basis of the appeal is aimed at the way the Council dealt with this matter in what the appellant believes to be delayed and inconsistent communication and errors in calculation of the CIL. The appellant therefore contends that much of the delay in payment of the CIL was caused by the Council.
6. However, I can only determine the appeal on the factual evidence before me in relation to the CIL Regulations. With that in mind, it is a fact that a 'disqualifying event' took place and the CIL was not paid within 30 days or 6 months of the due date. It was incumbent on the appellant to ensure the correct procedures were followed as explained in the LN and Self-build Relief Claim Decision Notice. Both notices warned of the possible consequences of failing to do so. I note the appellant's contention that the Council contributed to the delay in paying the CIL. However, in view of the warning in the LN, he should have been aware that it was his responsibility to ensure the CIL was paid by the due date and therefore he could have made his concerns known to the Council, during the ongoing discussions, about the need for the CIL to be paid on time. Therefore, while I have sympathy with the appellant and can appreciate that it was a difficult and distressing process to go through, I can only make my conclusions on the evidence before me, as I have done above.
7. If the appellant is unhappy with the Council's conduct in this matter or has concerns about their adopted procedures, he may wish to make a complaint through the Council's established complaints process in the context of local government accountability.

8. For the avoidance of doubt, there is no ground of appeal available to contest the imposition of late payment interest.

Formal decision

9. For the reasons given above, the appeal under Regulation 117(1)(b) is dismissed, but the appeal under Regulation 117(1)(c) is allowed in part to the extent that the late payment surcharges are recalculated to [REDACTED] and [REDACTED] respectively. The surcharge of [REDACTED] for failing to inform the Council of a 'disqualifying event' is upheld.

K McEntee