The Planning Inspectorate

Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State

Decision date: 18th December 2025

Appeal ref: APP/R3650/L/25/3365788

[redacted]

- The appeal is made under Regulation 117(1)(c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [redacted] against a surcharge 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 20 April 2023.
- A Liability Notice was served on 31 July 2023.
- A Demand Notice was served on 6 May 2025.
- A revised Demand Notice was served on 28 May 2025.
- The alleged breaches that led to the surcharges are the failure to submit a Commencement Notice before starting works on the chargeable development, and the failure to pay the CIL within 30 days and 6 months of the due date.
- The outstanding surcharge for failing to submit a Commencement Notice is [redacted].
- The outstanding surcharge for failing to pay the CIL within 30 days of the due date is [redacted]
- The outstanding surcharge for failing to pay the CIL within 6 months of the due date is [redacted]

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

Reasons for the decision

1. After initially being made under Regulation 118, the appeal has been made under Regulation 11(1)(c) – that the surcharge has been calculated incorrectly. While three surcharges have been imposed, it appears clear from the appellant's supporting arguments that the appeal is solely in relation to the calculation of the surcharge for the failure to submit a Commencement Notice before starting works on the chargeable development.

2. With that in mind, while no CIL charge was imposed, Regulation 83(1) explains that where development has commenced before the Council has received a valid CN, they may impose a surcharge equal to 20% of the chargeable amount or [redacted], whichever is the lower amount. The appellant argues that 20% of 0 = 0 and therefore the surcharge should also be 0. However, Regulation 83(1A), which is an amendment to the original Regulation, states that "*Subject to paragraph (1B)*[1]*,*

[1] A Collecting Authority is not required to impose a surcharge under paragraph (1A) where it is satisfied that the amount of the surcharge is less than any reasonable administrative costs which it would incur in relation to the surcharge.

where a relevant development is commenced before the collecting authority has received a valid commencement notice in respect of the development, then instead of any surcharge which may be imposed under paragraph (1) the collecting authority must impose a surcharge equal to 20 per cent of the ***notional*** *(my emphasis) chargeable amount or* [redacted]*, whichever is the lower amount*". Amendment 83(5) explains that the notional chargeable amount means the amount of CIL that would have been payable as calculated in accordance with Regulation 40 and Schedule 1, in relation to the development, as if the relief had not been granted for residential annexes, self-build housing or charitable and social housing relief. In this case, the notional amount is [redacted].

3. In view of the above, the Council were entitled to impose a surcharge of [redacted], which is clearly the lower amount compared with 20% of [redacted], which equals [redacted]. The appeal fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the surcharge of [redacted] is upheld.

K McEntee