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# Appeal Decision

by Ken McEntee

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

Decision date: 11<sup>th</sup> August 2026

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**Appeal ref: APP/X3540/L/25/3370558**

- The appeal is made under Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought [REDACTED] against a surcharge imposed by East Suffolk Council.
- The relevant planning approval to which the surcharge relates is [REDACTED]
- Planning permission was granted on 4 February 2025.
- The description of the permission is "[REDACTED]  
[REDACTED]  
[REDACTED]".
- A Liability Notice was served on 13 February 2025.
- A Demand Notice was served on 29 July 2025.
- 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 is [REDACTED]

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

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## Reasons for the decision

1. The appeal is made under Regulation 117(1)(a) – that the alleged breach which led to the surcharge did not occur. The alleged breach is the failure to submit a Commencement Notice (CN) before starting works on the chargeable development. The appellant insists that he submitted a CN by post on 17 May 2025 and has provided a copy, but the Council contend they have no record of having received it. It appears that the appellant used standard first-class post to submit the CN. While he was entitled to use this method of postage, unfortunately it comes with a risk as it does not provide for proof of postage, such as Recorded Delivery or Registered Post for example. Therefore, while I have sympathy with the appellant if he posted the CN, without any such proof of postage before me, I cannot conclude that a CN was submitted.
2. Notwithstanding the issue of submission of the CN, as pointed out by the Council, as the copy of the CN provided in evidence by the appellant does not identify the Liability Notice as required by Regulation 67(2)(b), it could not have been accepted as valid in any event.
3. While I acknowledge the appellant's age and can appreciate that he found the whole process stressful and confusing, I'm afraid I have no authority to consider mitigation. I can only determine the appeal on its facts in relation to the CIL

Regulations. CIL is a very rigid and formulaic process, and the onus was very much on the appellant to ensure that a CN was submitted and received by the Council. The LN also gave a clear warning as to the possible consequences of commencing works before receiving a Commencement Acknowledgement Notice (see Annex below). There is no obligation for Councils to send out reminders. Therefore, I consider that the decision to press ahead with the development before receiving an Acknowledgement Notice from the Council, to be a risky strategy to have taken.

4. On the evidence before me, I can only conclude that the alleged breach which led to the surcharge occurred. The appeal fails accordingly.
5. If the appellant is not happy with the Council's conduct in this matter or their adopted procedures, he may wish to make a complaint through the Council's established complaints process in the context of local government accountability.

### **Formal Decision**

6. For the reasons given above, the appeal on the ground made is dismissed and the surcharge of [REDACTED] is upheld.

*K McEntee*

### **Annex to the decision**

**\*\*WARNING\*** Do not commence until you receive the Commencement Acknowledgement Notice from East Suffolk confirming your Commencement Notice (Form 6) is valid. Failure to do so will result in the loss of instalments policy, surcharges for failing to submit a valid commencement notice and statutory late payment interest would apply until the CIL Liability is paid in full".