



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 6 June 2023

Appeal ref: APP/H5960/L/23/3319512

Land at [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Wandsworth Council.
- The relevant planning permission to which the CIL relates is [REDACTED].
- Planning permission was granted on 16 October 2019.
- The description of the permission is as described in the annex to this decision.
- A Liability Notice was served on 20 August 2020.
- A Demand Notice was served on 15 September 2020.
- A revised Demand Notice was served on 2 March 2023.
- The alleged breaches are the failure to pay the CIL charge within 6 months and 12 months in accordance with the Council's instalments policy.
- The outstanding surcharge for failure to pay the CIL instalment within 6 months is [REDACTED].
- The outstanding surcharge for failure to pay the CIL instalment within 12 months is [REDACTED].

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

Procedural matters

1. It is clear that as well as the surcharges, the appellant would like to appeal against the late payment interest. For the avoidance of doubt, there is no ground of appeal available against interest charges and consequently I have no authority to quash them. My consideration of the appeal is therefore solely related to the late payment surcharges.

Reasons for the decision

2. The basis of the appeal seems to be that "*The original CIL Notice dated 16 October 2019 (see attached) was never received...*". However, the only document before me dated 16 October 2019 is the Decision Notice granting planning permission for the relevant development. There is no ground of appeal available against the failure of the Collecting Authority (Council) to serve a Decision Notice. However, there is a ground of appeal available against the Council's failure to serve a Liability Notice (Regulation 117(1)(b)). Consequently, the Inspectorate

wrote to the appellant to seek confirmation of his grounds of appeal but received confirmation that the appeal is being made under Regulation 117(1)(a) – *that the alleged breach which led to the surcharge did not occur*. Therefore, this is the only ground before me to consider.

3. With that in mind, Regulation 85(2) explains that if any part of the CIL amount is not received after the end of 6 months beginning with the day it is due, the Council may impose a surcharge equal to 5% of the unpaid amount or [REDACTED], whichever is the greater amount. The same is explained in Regulation 85(3) but in reference to any part of the CIL amount not being received after 12 months. As the Council did not receive payment within these time periods, they imposed late payment surcharges in accordance with the CIL Regulations as they were entitled to do. Therefore, I am satisfied the alleged breaches occurred as a matter of fact and therefore the appeal under this ground fails accordingly.

Formal decision

4. For these reasons, the appeal is dismissed and the surcharges of [REDACTED] and [REDACTED] are upheld.

K McEntee

Annex to the decision

Description of planning permission [REDACTED]

" [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]