



Appeal Decision

by Ken McEntee

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

Decision date 17 May 2023

Appeal ref: APP/P0119/L/23/3317006

Land at [REDACTED]

- 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 South Gloucestershire Council.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- Planning permission was granted on 29 April 2022.
- The description of the development is "[REDACTED]
[REDACTED]
[REDACTED]".
- A Demand Notice was served on 2 December 2022.
- A revised Liability Notice was served on 26 January 2023.
- A revised Demand Notice was served on 26 January 2023.
- The alleged breaches to which the surcharges relate is the failure to assume liability and the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to assume liability is [REDACTED].
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED].

Summary of decision: The appeal is allowed and the surcharges are quashed.

The appeal under Regulation 117(1)(b)

1. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharges relate. The Council contend that they served the original LN of 30 April 2022 on the same date by e-mail to the appellant, but the appellant insists he did not receive any such e-mail. Although the Council has provided a copy of the LN, they have not provided any evidence to support their contention that an e-mail was actually sent, such as a copy of the relevant e-mail for example. In a situation such this I can only go by the documentary evidence before me. With that in mind, while I am satisfied a LN was produced on 30 April 2022, I cannot be satisfied a LN was actually served as required by Regulation 65(1). Without a LN, it was not possible for the appellant to submit a valid Commencement Notice as the notice requires the LN to be identified in accordance with Regulation 67(2)(b).

2. In these circumstances and on the evidence before me, I have no option but to allow the appeal on this ground and quash the surcharges.

The appeal under Regulation 117(1)(c)

3. In view of my findings above, the appeal under this ground does not fall to be considered.

Formal decision

4. For the reasons given above, the appeal on the ground made is allowed and the surcharges of [REDACTED] and [REDACTED] are quashed.

K McEntee