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# Appeal Decision

**by Ken McEntee**

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

Decision date: 4 August 2023

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**Appeal ref: APP/K3415/L/23/3323095**

**Land at** [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Lichfield District Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- Planning permission was granted on 25 March 2020.  
The description of the development is: "[REDACTED]".
- A Liability Notice was served on 7 April 2020.
- A Demand Notice was served on 25 May 2023.
- The alleged breaches to which the surcharges relate are the failure to assume liability and the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to assume liability is [REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].

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

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## Reasons for the decision

1. An appeal under regulation 117(1)(c) is that the surcharges have been calculated incorrectly. However, I note from the supporting arguments that the appellant's case is more that the surcharges should not have been imposed at all, rather than they have been miscalculated. She does not dispute that she failed to assume liability or submit a Commencement Notice before starting works on the chargeable development but explains that this was an oversight due to a lack of knowledge and understanding of the CIL system and trying to deal with the matter while having to cope with a traumatic pregnancy. However, while I have sympathy with the appellant and in no way wish to appear dismissive of the stress and personal difficulties she has been through, I'm afraid I have no authority to consider mitigation and can only determine the appeal on the factual evidence before me. With that in mind, it is a matter of fact that neither an Assumption of Liability Notice or a Commencement Notice were submitted before works began on the chargeable development as required by Regulations 31(1) and 67(1).
2. Therefore, the Collecting Authority (Council) were entitled to impose the relevant surcharges in accordance with Regulations 80 and 83, and there is no evidence

before me to demonstrate that these surcharges have been miscalculated. Therefore, while I have sympathy with the appellant, I have no option but to dismiss the appeal on the evidence before me.

**Formal decision**

3. For the reasons given above, the appeal is dismissed and the surcharges of [REDACTED] and [REDACTED] are upheld.

*K McEntee*