



Appeal Decision

by Ken McEntee

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

Decision date: 21st September 2023

Appeal ref: APP/P113/L/22/3308705

Land at 5-7 Newton Road, Kingskerswell, Newton Abbot, Devon, TQ12 5EQ

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) and (b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by Mr J Loach against surcharges imposed by Teignbridge District Council.
- The relevant planning permission to which the surcharges relate is 19/01249/FUL.
- Planning permission was granted on 7 February 2020.
- The description of the development is: "Three dwellings with ten parking spaces, alterations to existing accesses and associated groundworks".
- A Liability Notice was served on 12 February 2020.
- A Demand Notice was served on 30 August 2022.
- A revised Demand Notice was served on 1 September 2022.
- The alleged breaches 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 £50.
- The outstanding surcharge for failing to submit a Commencement Notice is £2,500.

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

Reasons for the decision

1. An appeal under Regulation 117(1)(a) is that the alleged breach which led to the surcharge did not occur. In this case, the appellant is contending the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharge relates, and consequently he was not aware he had to submit an Assumption of Liability Notice or a Commencement Notice. Regulation 65(3)(a) makes clear that a LN must be served on the relevant person as defined in Regulation 65(12). However, Regulation 126 explains the options open to the Council for service of documents. Regulation 126(1)(e) states "*in a case where an address for service using electronic communications has been given by that person, by sending it to that person at that address...*". In this case, Mr Michael Roberts of Preliminary Planning Professionals is stated on the planning application form of 17 June 2019 as the appellant's agent and his e-mail address is given as mickatppp@blueyonder.co.uk. No e-mail address is given for the appellant. Therefore, the Council correctly submitted the LN to the agent's e-mail address on 12 February 2020, which was within 3 working days of the planning permission.

2. However, the agent contends that he ended his involvement with the development once planning permission was granted and the stated e-mail address is no longer available. That being the case, I consider it not unreasonable to expect either the agent or the appellant to have informed the Council of this fact. Had they done so, it would then have been incumbent on the Council to send a Liability Notice directly to the appellant's postal address. Without such information before them, the Council cannot be faulted for sending the Liability Notice to the e-mail address provided.
3. In these circumstances, and on the evidence before me, I am satisfied that the alleged breaches occurred as a matter of fact and that the Council did not fail to serve a Liability Notice in respect of the development to which the surcharges relate. The appeal therefore fails on both grounds made.

Formal decision

4. For the reasons given above, the appeal is dismissed and the surcharges of £50 and £2,500 are upheld.

K McEntee