



Appeal Decision

by Ken McEntee

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

Decision date: 9 November 2023

Appeal ref: APP/A3010/L/23/3329854

- The appeal is made under Regulations 117(1)(a) and (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Bassetlaw District Council.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- Planning permission was granted on 19 October 2020.
- The description of the development is "[REDACTED]".
- A Liability Notice was served on 11 November 2020.
- A revised liability Notice was served on 7 September 2023.
- A Demand Notice was served on 7 September 2023.
- The alleged breaches that led to the surcharges are the failure to assume liability and 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.

Procedural matters

1. It is clear from the appellant's supporting arguments that the main basis for the appeal is that he believes the CIL charge has been incorrectly calculated as it should not have included phase 2 of the permission. For the avoidance of doubt, I have no authority to consider the CIL calculation. The only way this can be done is by way of an appeal to the Valuation Office Agency in accordance with Regulation 114. I can only determine this appeal under Regulation 117(1)(a) and (c), solely in relation to the surcharges.
2. It appears clear that the appellant is unhappy with the way the Collecting Authority (Council) has dealt with this matter. If the appellant has concerns about the Council's conduct or their adopted procedures, he may wish to make a complaint through the Council's established complaints process in accordance with local government accountability.

The appeal under Regulation 117(1)(a)

3. An appeal on this ground is that the alleged breaches did not occur. It is made clear in the Liability Notice of 11 November 2020 that an Assumption of Liability Notice and a Commencement Notice must be submitted prior to commencement of development as

required by Regulations 31(1) and 67(1). The appellant does not refute that he did not submit either form or that works have begun on the development for permission [REDACTED]. In fact, it appears the development has been completed. Therefore, on the evidence before me, I conclude that the alleged breaches which led to the surcharges have occurred as a matter of fact. The appeal on this ground fails accordingly.

The appeal under Regulation 117(1)(c)

4. An appeal on this ground is that the surcharges have been calculated incorrectly. Although an appeal has been made on this ground, the appellant has not explained why he considers the surcharges have been miscalculated and it appears that is more a case that they should not have been imposed in principle. Nevertheless, Regulation 83 explains that where a chargeable development is commenced before the Council has received a valid Commencement Notice, a surcharge of 20% of the chargeable amount may be imposed or [REDACTED], whichever is the lowest amount. The CIL amount in this case is [REDACTED]. As 20% of this sum = [REDACTED], it follows that [REDACTED] is clearly the lower amount. Therefore, I am satisfied the Council have not miscalculated this surcharge. Regulation 80 explains that as nobody has assumed liability and the chargeable development has commenced, the Collecting Authority may impose a surcharge of [REDACTED], which they have done in this case, and consequently have not miscalculated this surcharge either. Therefore, the appeal under this ground also fails accordingly.

Formal Decision

5. For the reasons given above, the appeal on the grounds made is dismissed and the surcharges of [REDACTED] and [REDACTED] are upheld.

K McEntee