

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/F1610/L/23/3329870

- The appeal is made under Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a CIL surcharge imposed by Cotswold District Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 13 August 2020.
- The description of the development is: "[REDACTED]
[REDACTED]
- A Liability Notice was served on 14 August 2020.
- Demand and Surcharge Notices were served on 29 August 2023.
- The alleged breach that led to the surcharge is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a submit a Commencement Notice is £[REDACTED].

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

Reasons for the decision

1. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice (LN). However, in this case the Council have provided evidence that a LN was served on the appellant by e-mail of 14 August 2020. The appellant appears to accept this, and his appeal is more one of mitigation for failing to submit a Commencement Notice due to the passage of time since planning permission was granted, the lack of receipt of a reminder and his lack of knowledge of the system.
2. However, while this is noted, I should point out that the need to submit a Commencement Notice before starting works on the chargeable development, and the potential for a surcharge for failing to do so, was clearly explained in the Liability Notice that was directly served on the appellant. It was the appellant's responsibility to ensure a Commencement Notice was submitted and the Council were under no obligation to send out reminders. Once works commenced, the appellant became liable for CIL surcharges with immediate effect.
3. In these circumstances, the appeal fails accordingly.

Formal Decision

4. For the reasons given above, the appeal is dismissed and the surcharge of [REDACTED] for failing to submit a Commencement Notice is upheld.

K McEntee