



Appeal Decision

by Ken McEntee

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

Decision date: 20 December 2023

Appeal ref: APP/D1590/L/23/3328667

Land at Adjacent to [REDACTED]

- The appeal is made under Regulations 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against CIL surcharges imposed by Southend-on-Sea City Council.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- The description of the development is: "[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]".
- permission was granted on 13 August 2020.
- A Demand Notice was served on the appellant on 23 June 2023.
- A revised Demand Notice was served on 7 August 2023.
- The alleged breaches are the failure to assume liability, to submit a Commencement Notice before starting works on the chargeable development, and to pay the CIL on time.
- The outstanding surcharge for failing to assume liability is [REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The outstanding surcharges for failing to pay the CIL on time totals [REDACTED].

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

Reasons for the decision

1. The appeal is made on the ground that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharges relate. The appellant contends that he was unaware of the CIL charge until he received a communication containing an invoice, but he doesn't state the date of this communication. However, as there was no postal or e-mail address given in the planning application form for the appellant, the Council sent a Liability Notice to the e-mail address of the appellant's agents, [REDACTED], on 20 August 2020 in accordance with CIL Regulation 126(1)(e). [REDACTED] replied to the e-mail confirming that the Liability Notice had been sent on to the appellant. The Council has provided a copy of this e-mail exchange. I note that the appellant has not responded to this evidence.
2. On the evidence before me, I am satisfied that the Council did not fail to serve a Liability Notice in respect of the development to which the surcharges relate. The appellant should therefore have been aware of the requirement to assume liability, to submit a Commencement Notice before starting works on the chargeable development, and when the CIL was due to be paid. While I

acknowledge that this was the appellant's first experience of CIL, I can only determine the appeal on its facts and have no authority to consider mitigation. Therefore, I have no option but to dismiss the appeal.

Formal decision

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

K McEntee