
Appeal Decision

by Ken McEntee

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

Decision date: 11 October 2024

Appeal ref: APP/K0235/L/24/3347269

- 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 [REDACTED] against a surcharge imposed by Bedford Borough Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: "[REDACTED]".
- Planning permission was granted by appeal APP/K0235/W/20/3255478 on 1 June 2021.
- A Liability Notice was served on 2 June 2021.
- A revised Liability Notice was served on 31 January 2022.
- A revised Liability Notice was served on 24 April 2024.
- A Demand Notice was served on 18 June 2024.
- The alleged breach to which the surcharge relates is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to submit a Commencement Notice is £[REDACTED].

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

The appeal under Regulation 117(1)(a)

1. An appeal under Regulation 117(1)(a) is that the alleged breach that led to the surcharge did not occur. CIL Regulation 67(1) explains that a Commencement Notice (CN) must be submitted to the Collecting Authority (Council) no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant sent a letter to the Council on 27 April 2024 informing them of his intention to commence works in middle to late May.
2. However, Regulation 67(2)(a) explains that a CN must be submitted in writing on a form published by the Secretary of State (or a form to substantially the same effect). The relevant form published by the Secretary of State is CIL Form 6, which was made clear in the Council's e-mail to the appellant of 24 April 2024. Unfortunately, the appellant's letter of 27 April 2024 does not meet the requirements of Regulation 67(2)(a). While I have sympathy with the appellant if he has made a genuine mistake, I'm afraid I can only determine the appeal based on the documentary evidence before me. With that in mind, I can only conclude that the alleged breach which led to the surcharge occurred. The appeal under this ground fails accordingly.

The appeal under Regulation 117(1)(b)

3. An appeal under this ground is that the Council failed to issue a Liability Notice (LN) to which the surcharge relates. However, it is clear from the evidence before me that the Council issued an LN on 2 June 2021 and again on 31 January 2022 and 24 April 2024. Indeed, the appellant has included a copy of the latter with his appeal documents. That being the case, I can only assume that the appeal under this ground was made in error. The appeal under this ground also fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed and the surcharge of £[REDACTED] is upheld.

K McEntee