



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 3 January 2025

Appeal ref: APP/Z3825/L/24/3351770

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Horsham District Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: "[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]".
- Planning permission was granted on 17 June 2024
- A Liability Notice was served on 19 July 2024.
- A Demand Notice was served on 20 August 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.

Reasons for the decision

1. An appeal under Regulation 117(1)(a) is that the alleged breach that led to the surcharge did not occur. Regulation 67(1) of the CIL regulations 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 appellants sent an e-mail to the Council on 19 July 2024 informing them that they intended to start work on the chargeable development on 24 July 2024, and asked if there was a specific form they needed to complete. The Council responded on the same day (and have provided a copy of the e-mail) explaining that a valid CN must be submitted before works are begun, and they attached the relevant form for completion. Unfortunately, the appellants contend that they did not receive this e-mail.
2. While I have sympathy with the appellants if this was the case, I can only determine the appeal based on the factual documentary evidence before me. With that in mind, I am satisfied that the Council responded to the appellants e-mail of 19 July 2024. Having not received a response, it is not clear why the appellants did not chase the Council before pressing ahead with the development. I consider their decision not to do so was a risky strategy to take. On the

evidence before me, I can only conclude that the alleged breach occurred. The appeal fails accordingly.

Formal decision

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

K McEntee