



Appeal Decision

by Ken McEntee

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

Decision date: 9 January 2025

Appeal ref: APP/D0840/L/24/3349412

- [REDACTED]
- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
 - The appeal is brought by [REDACTED] against a surcharge imposed by Cornwall Council.
 - Planning permission was granted on 20 April 2022.
 - A Liability Notice was issued on 21 April 2022.
 - A Demand Notice was served on 31 July 2024.
 - The relevant planning permission to which the CIL surcharge relates is [REDACTED].
 - The description of the development is: "[REDACTED]
[REDACTED]".
 - 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.

Procedural matters Reasons for the decision

1. I note that a Surcharge Notice served on 25 July 2024 includes a late payment surcharge of £[REDACTED]. However, this charge is not included in the Demand Notice of 31 July 2024, which is the most recent and relevant notice before me to be considered.
2. The appeal has been made under Regulation 117(1)(b) – that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharge relates. Regulation 65(3)(a) explains that a LN must be served on the "relevant person". The relevant person is the person who applied for planning permission. However, Regulation 126 lists the different ways that are acceptable for documents to be served. Regulation 126(1)(e) explains that "*in a case where an address for service using electronic communications has been given by that person, by sending it using electronic communications, in accordance with the condition set out in paragraph (2), to that person at that address...*". In this case, the applicant's agent's e-mail address ([REDACTED]) was given in the planning application form. No e-mail address was given for the applicant. Therefore, the Council duly sent the LN, along with an Assumption of Liability Notice for the appellant to complete, by e-

mail to the appellant's agent on 21 April 2022, and I note they have provided a copy of that e-mail. The e-mail requested that the agent ensure the documents be sent on to the appellant or to provide a contact e-mail address for him.

3. The appellant makes much of the fact that the Council concede errors were made in submission of other correspondence to his e-mail address, which was given in the Assumption of Liability Notice. While this may be the case, the fact remains there was no such error made in submission of the e-mail of 21 April 2022 to the appellant's agent. I note that the appellant does not suggest otherwise or that his agent did not receive the e-mail.
4. In these circumstances, I am satisfied on the evidence before me that a LN was correctly served by the Council in accordance with the CIL Regulations. The appeal fails accordingly.

Formal decision

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

K McEntee