



Appeal Decision

by Ken McEntee

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

Decision date: 15 January 2025

Appeal ref: APP/Q5300/L/24/3351797

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 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 the London Borough of Enfield.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 29 November 2023.
- The description of the development is: "[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]".
- A Liability Notice was served on 4 December 2023.
- A Demand Notice was served on 15 March 2024.
- A revised Demand Notice was served on 21 August 2024.
- The alleged breach that led to the surcharge is the late payment of the CIL after 30 days of the due date.
- The outstanding late payment surcharge is £[REDACTED].

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

The appeal under Regulation 117(1)(b)

1. I shall address the appeal under this ground first, which is that the Collecting Authority (Council) failed to serve a Liability Notice in respect of the development to which the surcharge relates. While the appellant has ticked the relevant box for this ground, rather than referring to a Liability Notice, his supporting arguments refer to an "imposed notice" or "warning notice" not being sent to him. However, the former does not exist within the CIL regime, and the latter is only relevant to an appeal under Regulation 119(1)(a) in a situation where such a notice was not issued by the Council before serving a Stop Notice. There is no evidence before me of a Stop Notice having been issued in this case.
2. Added to this, the Council has stated that they served a Liability Notice directly to the appellant on 4 December 2023 and have provided a copy. I note that the appellant has not taken the opportunity to submit final comments to refute the Council's assertion. Therefore, based on the evidence before me, I consider it reasonable to conclude that the Council did serve a Liability Notice in respect of the development to which the surcharge relates. The appeal on this ground fails accordingly.

3. It may be that the appellant meant to refer to not receiving a Demand Notice, as opposed to a Liability, Warning or "imposed" Notice. However, for the avoidance of doubt, there is no ground of appeal available against the alleged failure of the Council to serve a Demand Notice. In any event, the Liability Notice makes clear that payment of the CIL was due within 60 days of commencement. The Form 6 submitted by the appellant shows the Commencement date to be 12 February 2024.

The appeal under Regulation 117(1)(a)

4. Regulation 117(1)(a) is that the alleged breach which led to the surcharge did not occur. The surcharge relates to the late payment of the CIL which was due to be paid by 12 April 2024 in accordance with the Liability Notice and the original Demand Notice of 15 March 2024. As payment was not made until 10 July 2024, it follows that the alleged breach which led to the surcharge has occurred. Therefore, the appeal on this ground also fails.
5. It appears clear that the appellant is not happy with the way the Council has dealt with this matter. If the appellant has concerns about the Council's conduct or their adopted procedures, I can only suggest that he may wish to make a complaint through the Council's established complaints process in accordance with local government accountability.

Formal decision

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

K McEntee