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# Appeal Decision

by Ken McEntee

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

Decision date: 27 August 2025

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**Appeal ref: APP/G3300/L/25/3359324**

- The appeal is made under Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by Somerset Council.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 14 February 2024.
- The description of the development is "[REDACTED]".
- A Liability Notice was served on 2 January 2025.
- A Demand Notice was served on 8 January 2025.
- The alleged breach is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a Commencement Notice is £[REDACTED].

**Summary of decision: The appeal is allowed and the surcharge is quashed.**

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## Reasons for the decision

1. An appeal under Regulation 117(1)(b) is that the Collecting Authority (Council) failed to serve a Liability Notice (LN) in respect of the development to which the surcharge relates. Regulation 65(1) explains that the Council must issue a LN as soon as practicable after the day on which planning permission first permits development. In this case, planning permission was granted on 14 February 2024, but it appears a LN was not issued until 2 January 2025 – some 11 months later. The Council do not explain the reason for such a long delay. While the term "as soon as practicable" is open to interpretation, I do not consider that 11 months can reasonably be interpreted as meeting the requirement of Regulation 65(1) for a LN to be served as soon as practicable after the day on which planning permission first permits development.
2. I note that although the appellant could not be certain, he believes works began on the chargeable development on 14 June 2024. The Council contend that the appellant was aware of the need to submit a Commencement Notice (CN) in view of their completion of CIL Form 2 of 9 January 2024, which makes this requirement clear. However, the LN acts as the trigger for the recipient to submit a valid CN before starting works on the chargeable development. CIL is a very rigid and formulaic process and having knowledge by other means of the need to

submit a CN does not act as a substitute for the required LN. The Council's failure to issue a LN more promptly effectively deprived the appellant of the opportunity to submit a valid CN as Regulation 67(2)(b) explains that a CN must identify the LN in respect of the chargeable development in order for it to be valid. As the appellant did not receive a LN until some 11 months after approval of the development, it was simply not possible for him to identify the LN and therefore to submit a valid CN before he started works.

3. In these circumstances, and on the evidence before me, I conclude that the Council failed to serve a timely LN and consequently the appeal should succeed accordingly.

**Formal decision**

4. For the reasons given above, the appeal under the ground made is allowed and the surcharge of £[REDACTED] is quashed.

*K McEntee*