

Appeal Decision

by Ken McEntee

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

Decision date: 1st October 2025

Appeal ref: APP/Q3630/L/25/3362511

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a), (b) and (c) and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Runnymede Borough Council.
- The relevant planning permission to which the CIL surcharges relate is [REDACTED].
- The description of the development approved is: "[REDACTED]".
- Planning permission to which the surcharges relate was granted on 26 April 2023.
- A Liability Notice was produced on 22 May 2023.
- A revised Liability Notice was produced on 31 May 2023.
- A Demand Notice was issued on 13 February 2025.
- The alleged breaches to which the surcharges relate is the failure to submit a Commencement Notice before starting works on the chargeable development, and the failure to pay the CIL within 30 days of the due date.
- The outstanding surcharge for failure to submit a Commencement Notice is £[REDACTED].
- The outstanding surcharge of late payment of the CIL is £[REDACTED].
- The determined deemed commencement date given in the Demand Notice is 8 October 2024.

Summary of decision: The appeal is allowed and the surcharges are upheld.

Procedural matters

1. An application for costs has been made by the Collecting Authority (Council) against the appellant. This is the subject of a separate decision attached to this appeal decision.

The appeal under Regulations 117(1)(a)¹ and (b)²

2. I shall address the appeal under Regulation 117(1)(b) first as it impacts on the appeal under Regulation 117(1)(a).
3. The appellant insists that he did not receive a Liability Notice (LN). The Council contend that a LN was duly sent by post on 22 May 2023 and a revised LN was sent by post on 31 May 2023. The Council explain that they use the Exacom system to manage CIL applications and that all statutory

¹ That the claimed breach which led to the surcharges did not occur.

² That the Collecting Authority failed to serve a Liability Notice in respect of the development to which the surcharges relate.

notices are recorded on an audit list, which they have provided. They add that all CIL notices are sent using an electronic mailing system known as Hybrid Mail that produces what they describe as posting receipts, which they have also provided. I note that the appellant confirmed to the Council on 31 May 2023 that he would like all correspondence to be sent by post to the Wheelers Green postal address, which he was entitled to do. The Council refer to section 7 of the Interpretation Act 1978 which states that service of documents is deemed to be effective if they are properly addressed, pre-paid and posted, unless the contrary is proved. They also argue that they do not need confirmation of service via recorded delivery as this is not a specific requirement of the CIL Regulations.

4. In a situation such as this I have to determine the appeal based on the documentary evidence before me and on the balance of probabilities. I note the Council's reference to section 7 of the Interpretation Act 1978 where it states that service of documents is deemed to be effective if they are properly addressed, pre-paid, and posted. While the Council has provided "receipts" from their electronic system, I cannot find any evidence within those "receipts" that demonstrates an envelope enclosing an LN was properly addressed, pre-paid and posted. While the Exacom system may show that a LN was generated, and while the Hybrid Mail system may record when it was processed/sent, neither of these systems can provide conclusive evidence that an envelope addressed to the appellant and enclosing a LN was physically put in the post.
5. I acknowledge the Council's point that the Regulations do not require documents to be served by way of recorded delivery. However, while they are entitled to serve documents by standard post in accordance with Regulation 126, it is a risky strategy to take as it does not provide for proof of postage, unlike recorded delivery which does.
6. Therefore, on the evidence before me, and on the balance of probabilities, I cannot be satisfied that a LN was served.
7. In view of this, it follows that I cannot conclude the appellant failed to submit a Commencement Notice (CN) as the LN acts as the trigger for the recipient to do so. Without a LN, it was not possible for the appellant to submit a valid CN as it requires the LN to be identified. The LN also gives notification of the CIL charge and when payment is due.
8. The appeal under both these grounds succeeds accordingly, and the surcharges are quashed.
9. The appellant requests that the instalment plan to pay the CIL be reinstated. For the avoidance of doubt, I have no authority to grant such a request, and the appellant may wish to pursue this matter further directly with the Council.

The appeal under Regulation 117(1)(c)³

10. In view of my findings above, the appeal under this ground does not fall to be considered.

³ That the surcharges have been calculated incorrectly.

The appeal under Regulation 118⁴

11. The determined deemed commencement date given in the Demand Notice is 8 October 2024, but the appellant states that it began "In the summer of 2024", without giving a specific date. The Council are happy to accept the appellant's assertion, and in the absence of a specific date they suggest that the deemed commencement date be amended to 1 June 2024 as the start of summer. I agree with the Council's suggestion. Therefore, I conclude that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date, and the correct date should be 1 June 2024. The appeal under this ground also succeeds accordingly.

Formal decision

12. For the reasons given above, the appeal is allowed and the surcharges of £[REDACTED] and £[REDACTED] are quashed.

K McEntee

⁴ That the Collecting Authority has issued a Demand Notice with an incorrectly determined deemed Commencement Notice.