



Appeal Decision

by Ken McEntee

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

Decision date: 23rd October 2025

Appeal ref: APP/N5090/L/25/3362575

- The appeal is made under Regulation 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 the London Borough of Barnet.
- The relevant planning permission to which the surcharge relates is [REDACTED].
- Planning permission was granted on 18 January 2018.
- The description of the development is [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].
- The Collecting Authority contends that a Liability Notice was served on [REDACTED] (the applicant for planning permission) on 1 February 2019.
- A Demand Notice was served on [REDACTED] on 7 June 2024.
- A Default Liability Notice was served on [REDACTED] on 10 June 2024.
- A Demand Notice was served on 11 September 2024.
- A revised Demand Notice was served on 11 February 2025.
- The alleged breaches that led to the surcharges are the failure to submit a Commencement Notice before starting works on the chargeable development, and the failure to pay the CIL within 30 days, 6 months and 12 months of the due date.
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The outstanding surcharge for late payment of the CIL totals [REDACTED] x 3).
- The determined deemed commencement date given in the Demand Notice is 17 December 2021.

Summary of decision: The appeal is dismissed under Regulations 117(1)(a) and (b) but allowed under Regulation 118. The appeal under Regulation 117(1)(c) does not fall to be considered.

Procedural matters

1. The appellant points out that there is confusion as to who is liable for the CIL surcharges as while the Demand Notice is addressed to [REDACTED] (I shall to as PCL from here), the surcharges appear to be imposed on [REDACTED] (the applicant for planning permission) who has no connection with PCL. The Collecting Authority (Council) acknowledge this but contend that they cannot see a requirement in the Regulations for a surcharge to be applied in a particular name. That being the case, it is not clear why they have done so, other than "*The name is only provided because of how the Exacom software works*". As CIL liability clearly transferred to the appellants by the Default Liability Notice of 10

June 2024, it is reasonable to expect the Demand Notice (DN) to reflect this. As things stand, the DN is showing that [REDACTED] is the liable party for the CIL surcharges and therefore PCL are not currently required to pay them. However, should the Council wish to continue to pursue the surcharges, it is open to them to issue a revised Demand Notice in accordance with Regulation 69(3).

2. I shall proceed to determine the appeal on the grounds made but cannot make a judgement on the surcharges as there are currently none in place against PCL.
3. For the avoidance of doubt, there is no ground of appeal available against the imposition of CIL interest. Therefore, this is not something I can consider.

The appeal under Regulation 117(1)(a)¹

4. The first claimed breach is the failure to submit a Commencement Notice (CN) before starting works on the chargeable development. The appellants point out that a Health and Safety Executive (HSE) F10 Notification of Construction Project was submitted on 22 January 2022, confirming commencement on 24 January 2022. However, while this shows that the HSE were notified, it doesn't demonstrate that the Council were notified, which is what was required to be done by way of submission of a valid CN in accordance with Regulation 67(1). Therefore, on the evidence before me, I conclude that this alleged breach occurred as a matter of fact.
5. As no surcharges have been imposed on the appellant, as explained in paragraph 1 above, the alleged breaches of late payment of the CIL are not before me to consider.
6. The appeal under this ground fails accordingly.

The appeal under Regulation 117(1)(b)²

7. The Council contend that they issued a Liability Notice (LN) to the applicant for planning permission, [REDACTED], by e-mail on 1 February 2019 but state that they cannot find a copy of that e-mail. Without such documentary evidence, I cannot be satisfied that the initial LN was served, the result of which would normally have prevented the intended recipient from submitting a valid CN as it requires the LN to be identified. However, I note the Council point out that a CN was submitted by the recipient on 11 February 2019, although, as with the LN, they contend they cannot find a copy of that notice. However, they have provided a copy of an e-mail of 14 June 2019 from [REDACTED], withdrawing the CN.
8. Nevertheless, the LN was registered as a local land charge as the Council were required to do under the local land charges Act 1975. Such a charge binds the land, and any purchaser or owner of the property are deemed to have full knowledge of any burden attached to the land by virtue of the registration. Therefore, whether or not the initial LN was served on [REDACTED], the appellant, as purchaser of the property, should have been aware of it from its registration and consequently the procedures as explained in the notice, such as the requirement to submit a valid CN.
9. The appeal on this ground also fails accordingly.

¹ The claimed breaches which led to the surcharges did not occur.

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

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

10. In view of my findings in paragraph 1 above, the appeal under this ground does not fall to be considered.

The appeal under Regulation 118⁴

11. The determined deemed commencement date given in the Demand Notice is 17 December 2021. However, the appellant insists that the correct date of commencement is 24 January 2022. I note that the Council now accept this to be the case and are content for the date to be amended.

12. The appeal on this ground succeeds accordingly.

13. Should the Council decide to continue to pursue the CIL and surcharges, they must now serve a revised Demand Notice with an amended determined deemed commencement in accordance with Regulation 69(4), with a revised determined deemed commencement date of 24 January 2022.

Formal Decision

14. For the reasons given above, the appeal under Regulations 117(1)(a) and (b) is dismissed but the appeal under Regulation 118 is allowed. The appeal under Regulation 117(1)(c) does not fall to be considered.

K McEntee

³ The surcharges have been calculated incorrectly.

⁴ The Collecting Authority has issued a demand notice with an incorrectly determined deemed commencement date.