



Appeal Decision

by Ken McEntee

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

Decision date: 30th October 2025

Appeal ref: APP/N5660/L/25/3362626

- The appeal is made under Regulation 117(1)(a) and (b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is [REDACTED] London Borough of Lambeth.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- Planning permission was granted by appeal decision [REDACTED] on 26 April 2017.
- The description of the development is "[REDACTED]".
- The Council contend that a Liability Notice was served on the applicant for planning permission, [REDACTED] on 16 May 2017.
- A Default Liability Notice was served on the appellants on 7 January 2025.
- A Demand Notice was served on the appellants on 6 February 2025.
- The alleged breaches are the failure to submit liability and 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 failure to assume liability is [REDACTED].
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED].
- The outstanding late payment surcharges total [REDACTED].

Summary of decision: The appeal is allowed on both grounds and the surcharges are quashed.

Reasons for the decision

1. I shall address the appeal under Regulation 117(1)(b)¹ first as it impacts on the appeal under Regulation 117(1)(a)². The Collecting Authority (Council) have provided a copy of correspondence of 16 May 2017 attaching a copy of a Liability Notice (LN) of that date and addressed to the applicant for planning permission, [REDACTED]. However, it is not clear whether this correspondence was submitted by post or e-mail and the Council have not provided proof of postage or a copy of the relevant covering e-mail, depending on which method of service was used. Therefore, I cannot be satisfied that the original LN was served.

¹ That the Collecting Authority failed to serve a Liability Notice in respect of the development to which the surcharges relate.

² That the claimed breaches which led to the surcharges did not occur.

2. That aside, when a LN is issued, it is standard procedure for it to be registered as a local land charge, which the Council are obliged 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. However, in this case, it appears that prior to the purchase of the land, the appellants obtained a Local Authority land search on 3 November 2017, which only showed record of a LN in relation to a 2015 planning permission [REDACTED] and not permission 1 [REDACTED]. The appellants obtained two further searches after purchase, both of which also failed to reveal the existence of a LN in relation to planning permission [REDACTED].
3. Therefore, even if it could be demonstrated that the LN of 17 May 2017 was actually served, it has not been demonstrated that it was registered as a local land charge at the time of service. The Council appear to argue that the appellants should have asked the Council for further information in relation to planning permission [REDACTED]. However, they were under no obligation to do so and were entitled to rely on the information obtained from the Local Authority searches. As those searches did not reveal the existence of a LN, it was not possible for the appellants to follow the stated procedures within it, such as submitting a valid Commencement Notice (CN) before starting works on the chargeable development. An LN acts as the trigger for this to happen, and in order for a CN to be valid, it must identify the relevant LN in accordance with Regulation 67(2)(b).
4. The commencement date of 31 March 2018 is not disputed by the appellants, and in the absence of a valid CN, CIL payment would normally be due on that date. However, as the appellants were not aware of the original LN via Local Authority searches as explained above, they are not liable for the late payment surcharges as listed in the Demand Notice.
5. In these circumstances, and on the evidence before me, I conclude that the appeal under both grounds should succeed.

Formal decision

6. For the reasons given above, the appeal under the grounds made are allowed and the surcharges of [REDACTED] and [REDACTED] are quashed.

K McEntee