



Appeal Decision

by Ken McEntee

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

Decision date: 5th November 2025

Appeal ref: APP/L5240/L/25/3363676

- The appeal is made under Regulation 117(1)(a) and (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against a surcharge imposed by the London Borough of Croydon.
- The relevant planning permission to which the surcharge relates is [REDACTED]
- Planning permission was granted on 9 December 2022.
- The description of the approval is [REDACTED]
[REDACTED] L, being 8 June 2022".
- A Liability Notice was served on 20 December 2022.
- Two revised Liability Notices were served on 17 December 2024.
- A Demand Notice was served on 25 February 2025.
- The alleged breach to which the surcharge relates is the failure to submit a Commencement Notice before starting works on the chargeable development.

Summary of decision: The appeal is dismissed.

Procedural matters

1. Regulation 69(2)(c) requires a Demand Notice (DN) to identify the Liability Notice (LN) to which it relates. It is usual practice for this to be done by stating the LN reference. It is also usual practice for the LN reference to differ from the planning permission reference. However, in this case they appear to be one and the same [REDACTED]. I note that on the first page of the DN under "[REDACTED]" [REDACTED]. However, this reference is not referred to in the DN as also being that of the LN. That being case, I cannot be satisfied that the DN is valid as it does not specifically identify the LN to which it relates. Therefore, while I will address the appellants grounds of appeal, I cannot uphold or quash the surcharge to which they relate.
2. I note that since the DN was issued, the CIL charge has been paid. Should the Collecting Authority (Council) decide to continue to pursue the CIL surcharge, they should now issue a revised DN in accordance with Regulation 69(3).

The appeal under Regulation 117(1)(a)

3. An appeal under this ground is that the alleged breach which led to the surcharge did not occur. It appears clear that there has been much correspondence from

the appellant to the Council in trying to establish the correct CIL amount and for a revised LN to be issued, which continued over a long period of time. The appellant argues that the Council's failure to deal with this issue more promptly was a factor in a Commencement Notice (CN) not being submitted before starting works on the chargeable development. However, while I can appreciate the appellant's frustration at the time taken to resolve this issue with the Council, the original LN clearly warned of the need for a valid CN to be submitted before development commences. Therefore, although there was a dispute in progress with regards to the CIL amount, it was still incumbent on the appellant to follow this procedure. Although a CN was eventually submitted on 17 February 2025, this was some 6 months after commencement of the development on 15 August 2024. Therefore, on the evidence before me, I can only conclude that the alleged breach which led to the surcharge occurred as a matter of fact. The appeal under this ground fails accordingly.

The appeal under Regulation 117(1)(c)

4. An appeal under this ground is that the surcharge has been calculated incorrectly. However, I note that the appellant has not provided any arguments or evidence to support this claim. Nevertheless, for the avoidance of doubt, Regulation 83 explains that where a chargeable development is commenced before the Council has received a valid CN, they may impose a surcharge equal to 20% of the chargeable amount or [REDACTED] whichever is the lower amount. In this case the chargeable amount is [REDACTED] and 20% of this amount = [REDACTED]. Therefore, as [REDACTED] clearly the lower amount, I cannot conclude that the Council has incorrectly calculated the surcharge. The appeal under this ground also fails accordingly.

Formal decision

5. For the reasons given above, the appeal is dismissed on both grounds made.

K McEntee