



Appeal Decision

by Ken McEntee

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

Decision date: 27th November 2025

Appeal ref: APP/J2210/L/25/3363569

- 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 Canterbury City Council.
- The relevant planning permission to which the surcharge relates is [REDACTED]
- Planning permission was granted on 24 February 2022.
- The description of the development is "[REDACTED]".
- A Liability Notice was produced on 5 April 2023.
- A Demand Notice was served on 19 March 2025.
- The alleged breach that led to the surcharge 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.

Procedural matters

1. I note that the appellant believes the development qualifies to be CIL exempt. For the avoidance of doubt, this is not a matter within my authority to determine. I can only determine the appeal solely in relation to the surcharge.

Reasons for the decision

2. 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. I note the Council contend that on 5 April 2023 they sent a LN to the appellant with an acknowledgement e-mail of receipt of Form 2, and they also sent a hard copy of the LN by post. However, while they have provided copies of an Acknowledgement Notice and LN, they haven't provided a copy of the relevant e-mail or proof of postage of the LN. Even if the Council's assertions were to be taken at face value, I would refer to Regulation 65(1) which explains that the Council must serve a LN as soon as practicable after the day on which planning permission first permits development. In this case, planning permission was granted on 24 February 2022, but it appears a LN was not served until 5 April 2023 – almost 14 months later. The Council do not explain the reason for this long delay. While the term "as soon as practicable" is open to interpretation, I do

not consider that almost 14 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.

3. On the evidence before me, I cannot be satisfied a LN was served, as soon as practicable or otherwise. The LN acts as the trigger for the recipient to submit a valid Commencement Notice (CN) before starting works on the chargeable development. Although the appellant contends that he submitted a CN (Form 6), along with Forms 1 and 2 in March 2023, it was not possible for it to be valid. For a CN to be valid, it must identify the LN to which it relates, in accordance with Regulation 67(1)(b). Aside from the fact that the date the appellant states a CN was submitted is prior to the date of the LN, as I cannot be satisfied a LN was actually served, it follows that the appellant was deprived of the opportunity to submit a valid CN before he started works on the chargeable development.
4. In these circumstances, and on the evidence before me, I conclude that the appeal should succeed accordingly.

Formal decision

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

K McEntee