



Appeal Decision

by **Ken McEntee**

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

Decision date: 11th June 2026

Appeal ref: APP/R3650/L/25/3366694

- The appeal is made under Regulation 117(1)(a), (b) and (c) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Waverley Borough Council.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- The description of the development is: [REDACTED]
[REDACTED]
[REDACTED]
- Planning permission was granted on 24 February 2023.
- A Liability Notice was served on 13 April 2023.
- A revised Liability Notice was served on 18 April 2023.
- Demand Notices were served on 18 April and 22 September 2023, and 10, 25, and 26 March and 1 May 2025.
- A Liability Order Reminder Notice was served on 1 May 2025.
- The alleged breaches that led to the surcharges are the failure to pay the CIL within 30 days, 6 months and 12 months of the due date.
- The outstanding late payment surcharges are [REDACTED] and [REDACTED] respectively.

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

Procedural matters

1. It is evident that a significant amount of the arguments put forward by the appellant concern the way the Collecting Authority (Council) has behaved in this matter. However, for the avoidance of doubt, I can only consider the merits of the appeal in relation to the grounds made in accordance with the CIL Regulations. If the appellant is unhappy with the Council's conduct or their adopted procedures, he may wish to make a complaint through the Council's established complaints process in the context of local government accountability.
2. I should also make clear that there is no ground available to appeal against the imposition of late payment interest. Therefore, I can only consider the grounds of appeal solely in relation to the late payment surcharges.
3. It is noted that at the time of submitting this appeal, the appellant had paid [REDACTED] towards the overall CIL charge of [REDACTED].

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

4. Although the appellant has appealed on Regulation 117(1)(b), it appears clear that he is not actually disputing that a LN was served as he acknowledges that he received the LN on 18 April 2025 by e-mail, but he is making the point that he was not contacted by the Council for almost another 2 years. However, I note that a revised DN was issued on 22 September 2023 (some 5 months after the LN and original Demand Notice (DN)), imposing a surcharge for failing to pay the CIL within 30 days. I also note that a further revised DN was not issued after the 6-month period for payment had elapsed. However, one was issued on 10 March 2025 that covered all 3 late payment surcharges for 30 days, 6 months and 12 months, but it is not explained why there was such a long delay in doing so.
5. Nevertheless, the fact remains that the original LN made clear that payment of the CIL was due within 90 days of commencement of the development. A Commencement Notice submitted by the appellant on 13 April 2023, states a commencement date of 17 April 2023. Therefore, payment of the CIL was due on or before 16 July 2023. As this clearly did not happen, the Council were entitled to impose late payment surcharges in accordance with Regulation 85.
6. I note that the appellant cites one of my previous appeal decisions [REDACTED] in support of his case, but that appeal concerned the delay in serving a LN after planning permission was granted. In this case, the appellant is arguing that the Council should have immediately issued a LN when the charge fell due in July 2023. However, it was not appropriate for the Council to have issued a LN at that stage as it had already been served. The next correct notice to serve was a revised DN, which the Council eventually did on 22 September 2023. While it is not clear why it was not issued sooner, there is no deadline given in the Regulations for a DN to be served. In any event, I can only reiterate that it was the appellant's responsibility to have followed the clear payment instructions given in the LN of 18 April 2023.
7. I should point out that it is not common practice for Councils to send out reminders in advance of the due date for payment, and they are under no obligation to do so. The onus was on the appellant to ensure payment of the CIL was made on time, and he could of course have taken steps to set his own reminders, particularly in view of the warning given in the LN of the possible consequences of failing to follow the payment procedure.
8. While I acknowledge that it took the Council some 7 weeks to serve a LN from the grant of planning permission, this did not impact on the appellant's ability to pay the CIL on time as the 90-day payment period ran from the date of commencement of the development.
9. On the evidence before me therefore, I am satisfied that the alleged breaches that led to the surcharges occurred and the Council did not fail to issue a LN. In these circumstances, the appeal on grounds 117(1)(a) and (b) fail accordingly.

¹ The alleged breaches that led to the surcharges did not occur

² The Council failed to issue a Liability Notice in respect of the development to which the surcharges relate

The appeal under Regulation 117(1)(c)

10. An appeal under this ground is that the surcharges have been calculated incorrectly. However, I concur with the Council's calculations as set out in paragraphs 53, 56 and 59 of their appeal statement, which are in accordance with Regulation 85. Therefore, the appeal on this ground also fails accordingly.

Formal decision

11. For the reasons given above, the appeal on the grounds made is dismissed and the surcharges of [REDACTED], [REDACTED] and [REDACTED] are upheld.

K McEntee