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# Appeal Decision

by Ken McEntee

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

Decision date: 3 August 2018

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**Appeal ref: APP/G1250/L/18/1200171**

**Land at 70 Broughton Avenue, Bournemouth, Dorset, BH10 6JA**

- The appeal is made under Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by Mr Mark Smith.
- A Liability Notice was served by Bournemouth Borough Council on 23 February 2017.
- A Demand Notice was served on 9 February 2018.
- The relevant planning permission to which the CIL surcharge relates is 7-2016-26008.
- Planning permission was granted on appeal on 2 February 2017.
- The description of the development is "New family dwelling at 70 Broughton Avenue".
- The alleged breach is failure to submit a Commencement Notice.
- The outstanding surcharge for failing to submit a Commencement Notice is £1,987.96.

**Summary of decision: The appeal is dismissed and the surcharge is upheld.**

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## Reasons for the decision

1. 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. The appellant accepts that a LN was sent to his agents, The Design Board, but contends that a notice should also have been sent to him. However, Regulation 126 explains the options for service of CIL documents. One of the options (Regulation 126(e)) states *in a case where an address for service using electronic communications has been given by that person, by sending it to that person at that address...* In this case, the appellant's architects, The Design Board, are stated on the planning application form of 24 April 2016 as the appellant's agents and their e-mail address is given. There is no direct e-mail address stated for the appellant. Consequently, the Council submitted the LN to the Design Board as the appellant's representatives at the e-mail address given. The Council's e-mail clearly states in bold that ***if you are an agent acting on behalf of an applicant, please can you ensure that all documents attached to this email are forwarded to the applicant.*** The LN makes clear the possible consequences of failing to submit a Commencement Notice.
2. In view the above, I have to conclude that proper service of the LN has been served on the appellant in accordance with Regulation 126(1)(e). While I have

sympathy with the appellant if his agents failed to act upon this, which appears to be the case, I can only suggest that this is a matter he may wish to take up with them.

3. It is clear that the appellant is not satisfied with the way the Council has conducted this matter and feels they could have done more to prevent the situation occurring. However, any complaints concerning the Council's conduct or their adopted procedures should be made through their established complaints process in the context of local government accountability.

**Formal decision**

4. For the reasons given above, the appeal is dismissed and the surcharge is upheld.

*K McEntee*