

Case Name: *Shropshire Council, R (On the Application Of) v The Secretary of State for Communities and Local Government* [2019] EWHC 16 (Admin) (16 January 2019)

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Commentary: The court dismissed an appeal by a self-builder against a CIL demand notice on the basis that his CIL commencement notice was not served prior to commencement of development.

Mr Jones obtained planning permission from Shropshire Council to build a detached house with triple garage.

The CIL liability was assessed at £36,861.43 but Mr Jones, relying on the self-build exemption, secured full relief from CIL. In order to benefit from the exemption, regulation 54B(6) provides that a "person who is granted an exemption for self-build housing ceases to be eligible for that exemption if a commencement notice is not submitted to the collecting authority before the day the chargeable development is commenced". Under the terms of the s106 agreement Mr Jones sent the Council an email notifying them that development had commenced on-site. He did not submit a separate Form 6 commencement notice as required under the regulation 67(2). Subsequently, he received an immediate demand for payment of £39,361.43 on the grounds that development had commenced without a commencement notice being sent to the Council. The sum charged consisted of the CIL due plus a surcharge of £2,500 for "invalid commencement".

Mr Jones appealed against the demand notice. On appeal the inspector did not adopt the "literal interpretation of the Regulations" and found that Mr Jones' commencement email had the same effect of Form 6 in practice. The inspector's decision was challenged by the Council in the High Court. The court held that the inspector erred in law. It held that the email did not amount to a valid commencement notice because it did not comply with the requirements of regulation 67(2). The court stated that "the Regulations make perfectly clear that the consequence of failure to comply is loss of the exemption; and failure to comply means failure to submit a notice under reg 67".

The court went on to state that Mr Jones's difficulties "have been caused entirely by his own acts and I see no good reason to relieve him from the consequences at the expense of the ratepayers of Shropshire".

Case summary prepared by Rebecca Craig