



## Appeal Decision

by Ken McEntee

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

Decision date: 12 April 2018

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Appeal ref: APP/J4423/L/17/1200151

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED].
- A Liability Notice was served on the appellant by Sheffield City Council on 8 June 2017.
- A Demand Notice was served on the appellant on 16 October 2017.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- The description of the development is: [REDACTED]
- The date on which planning permission was issued is 2 June 2017.
- The alleged breach is the failure to submit a Commencement Notice.
- The outstanding surcharge for failure to submit a Commencement Notice is [REDACTED]

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

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### Reasons for the decision

1. An appeal under Regulation 118 states that the collecting authority (Council) has issued a Demand Notice with an incorrectly determined deemed commencement date. In this case, the Council, determined the deemed commencement date to be 10 October 2017 as that was the date given in the Demolition Notice of the same date. The appellant does not refute that demolition works commenced on that date, but argues it was only carried out to enable construction of retaining wall structures to be carried out in relation to planning permission [REDACTED]. He contends that he did not intend to commence works on the CIL chargeable development.
2. However, the description of the development granted by the relevant planning permission clearly includes "*Demolition of [REDACTED]*". Moreover, Section 56 (2) of the Town and Country Planning Act 1990 explains that development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Section 56 (4) gives examples of what 'material operation' means and includes in section 56 (4) (aa) "*any work of demolition of a building*".
3. As the Council point out, Regulation 7(2) explains that development is to be treated as commencing on the earliest date on which any material operation

begins to be carried out on the relevant land. As the appellant does not dispute that demolition works were carried out on 10 October 2017, I am satisfied that the Council have not issued a Demand Notice with an incorrectly determined deemed commencement date. As no Commencement Notice was submitted, the Council were entitled to impose a surcharge in accordance with Regulation 83. In these circumstances, the appeal fails accordingly.

**Formal decision**

4. For the reasons given above, the appeal is dismissed on the ground made and the CIL surcharge is upheld.

*K McEntee*