The Planning Inspectorate

Appeal Decision

by Ken McEntee

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

Decision date: 6 June 2019

Appeal ref: APP/L5240/L/18/1200243

[redacted]

- The appeal is made under Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [redacted] against a surcharge imposed by Croydon Council.
- Planning permission was granted on 7 September 2018.
- A Liability Notice was served on 7 September 2018.
- A revised Liability Notice was served on 30 October 2018.
- A Demand Notice was served on 11 December 2018.
- The relevant planning permission to which the CIL surcharge relates is [redacted]
- The description of the development is; [redacted]
- The alleged breach is the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to submit a Commencement Notice is [redacted].

Summary of decision: **The appeal is allowed and the surcharge is quashed.**

Reasons for the decision

1. The appeal is made under Regulation 117(1)(a) – that the claimed breach which led to the surcharge did not occur. In this case, the appellant submitted a Commencement Notice on 5 December 2018, stating a commencement date of 18 November 2018. Consequently, the Collecting Authority understandably imposed a surcharge for failing to submit a Commencement Notice before starting works on the chargeable development. However, the appellant contends that the Commencement Notice was submitted in error as the only works that were actually carried out were the installation of central heating and electrical work, with no external works had taken place. There is no evidence before me that the Council visited the site to check the situation for themselves and it would appear from their written evidence that they are content that nothing more than the internal works described by the appellant had taken place.

2. 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. Regulation 7(6) explains that "material operation" has the same

meaning as in section 56(4) of the Town and Country Planning Act 1990. The definition given in section 56(4) is as follows;

(a) any work of construction in the course of the erection of a building;

(aa) any work of demolition of a building;

(b) the digging of a trench which is to contain the foundations or part of the foundations, of a building;

(c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);

(d) any operation in the course of laying out or constructing a road or part of a road;

(e) any change in the use of any land which constitutes material development.

3. I take the view that internal heating and electrical works cannot reasonably be interpreted as a "material operation" as defined above. Therefore, I am not satisfied that works had begun on the chargeable development on the date given in the Demand Notice. Consequently, I conclude that the claimed breach which led to the surcharge did not occur. I therefore allow the appeal and quash the surcharge.

Formal Decision

4. For the reasons given above, the appeal is allowed and the surcharge of [redacted] is quashed.

K McEntee