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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: 10 October 2019

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**Appeal ref: APP/W3520/L/19/1200281**

- 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] against surcharges imposed by Suffolk District Council.
- Planning permission was granted on 8 April 2019.
- A Liability Notice served on 9 April 2019.
- A Demand Notice was served on 9 April 2019.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED]
- The description of the development is: [REDACTED]  
[REDACTED]  
[REDACTED]
- The determined deemed commencement date given in the Demand Notice is 8 April 2019.

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

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## Procedural matters

1. For the avoidance of doubt, I have no powers to determine whether the CIL charge is correct in principle or whether it has been calculated correctly. I can only determine the appeal under the ground made, and solely in relation to the relevant planning permission (DC/19/00782). Any further applications submitted under section 73 of the 1990 Act are matters between the appellant and the Collecting Authority (Council).

## Reasons for the decision

2. An appeal under regulation 118 is that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. In this case, as development was carried out before planning permission was granted, the Council correctly determined that date to be 8 April 2019 (date when planning permission was granted) in accordance with Regulation 7(5). The appellant argues that as condition 6 of the permission was not discharged, development cannot have been lawfully implemented or commenced. However, the CIL regime is not concerned with whether or not a development is lawful; it is only concerned with whether it has commenced. There is nothing in the Regulations that requires the commencement to be lawful for it to be CIL liable. The trigger for CIL is the

carrying out of a material operation as defined by section 56(4) of the Town & Country Planning Act 1990, as amended.

3. In these circumstances, I am satisfied the Council has not issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal fails accordingly.

**Formal decision**

4. For the reasons given above, the appeal is dismissed.

*K McEntee*