



Appeal Decision

by **Ken McEntee**

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

Decision date: 7 January 2020

Appeal ref: APP/J4423/L/19/1200298

- 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 the determined deemed commencement date stated in Sheffield City Council's Demand Notice of 29 May 2019.
- The relevant planning permission to which the CIL relates is [REDACTED].
- Planning permission was granted on 12 April 2018.
- A Liability Notice served on 19 April 2018.
- A revised Liability Notice was served on 9 November 2018.
- A Demand Notice was served on 9 November 2019.
- A revised Demand Notice was served on 29 May 2019.
- The description of the development is: [REDACTED]
- The determined deemed commencement date given in the Demand Notice is 19 February 2018.

Summary of decision: The appeal is dismissed.

Reasons for the decision

1. An appeal under regulation 118 is that the Collecting Authority (Council) has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal before me appears to effectively be a re-run of previous appeal APP/J4423/L/19/1200239 by the same appellant in relation to the same planning permission. The appeal was allowed on 29 May 2019 and the Inspector concluded that based on the appellant's evidence, the correct deemed commencement date was 19 February 2018 on the balance of probabilities. Consequently, the Council issued a revised Demand Notice with a revised deemed commencement date of 19 February 2018. However, the appellant has now appealed that date but has submitted the same arguments as in the previous appeal and has not stated an alternative commencement date. It is clear from the Inspector's decision of 29 May 2019 that all the arguments were fully tested. Therefore, I see no good reason to do so again. The Inspector reached his conclusions based on the appellant's own evidence and there is no new evidence before me to warrant coming to a different conclusion. In these circumstances, the appeal fails accordingly.

2. It appears clear that the appellant is aggrieved by the Council's decision to withdraw his CIL exemption and this may be the purpose of his appeal. However, I have no powers to reinstate a CIL exemption; this is a matter for the appellant to pursue with the Council. However, it may be helpful if I explain that as the relevant planning permission was part retrospective, it automatically became liable for CIL as development was begun without a Commencement Notice being submitted, which amounted to a disqualifying event for CIL exemption. While this was unfortunate for the appellant, by not carrying out the development in accordance with the original planning permission and by pursuing permission for what amounted to material amendments instead, it was effectively a situation of his own making as it was obviously not possible for a Commencement Notice to be submitted in relation to retrospective development.
3. However, if the appellant is unhappy with the Council's conduct in this matter or their adopted procedures, he may wish to make a complaint through the Council's established complaints process in accordance with local government accountability.

Formal decision

4. For the reasons given above, the appeal on the ground made is dismissed.

K McEntee