Appeal Decision

by Ken McEntee

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

Decision date: 24 March 2021

Appeal r	ref: APP/T5150/L/20/1200429
Land at	

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by against the deemed commencement date determined by the London Borough of Brent.
- The relevant planning permission to which the CIL relates is
- Planning permission was granted on 25 June 2020.
- A Liability Notice was served on 29 June 2020.
- A Demand Notice was served on 13 July 2020.
- The description of the development is:
- The deemed commencement date stated in the Demand Notice is 25 June 2020.

Summary of decision: The appeal is dismissed.

Procedural Matters

1. The appellant has raised many issues in his grounds of appeal that he wishes a judgement to be made on, such as the correct period lawful use took place, whether three floors of the appeal building are exempt from CIL and whether the appeal proposal would create additional floor space. For the avoidance of doubt, I must stress that these are not matters within my remit to consider. My powers are restricted solely to determining the appeal on the ground made under Regulation 118, which is whether the Collecting Authority (Council) has issued a Demand Notice with an incorrectly determined deemed commencement date, specifically in relation to planning permission

Reasons for the decision

2. The determined deemed commencement date given in the Demand Notice is 25 June 2020. The appellant argues that the correct date is 3 June 2017 as that is when works began on planning permission However, no matter how

¹ Demolition of chimney breast and extensions and alterations to existing bungalow to create a two storey dwelling with habitable loft space, including front porch, two storey side extension, single storey front extension, side dormer window, two rooflights, side door and associated alterations to windows on the front elevations

closely linked to the relevant planning permission to this appeal is which is partly retrospective. The fact that there are elements of the permission that are not retrospective, does not have a bearing on the determination of the deemed commencement date in cases such as this where some works have been carried out before permission was granted.

- 3. CIL Regulation 68 explains that a Collecting Authority must determine the day on which a chargeable development was commenced if it has not received a Commencement Notice in respect of the chargeable development but has reason to believe it has been commenced, which it clearly has in this case as the permission is partly retrospective. 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.
- 4. However, Regulation 7(3) explains that this general rule is subject to provisions, such as that stated in Regulation 7(5)(a) where development has already been carried out then granted planning permission under section 73A of the Town & Country Planning Act. In such cases, development is to be treated as commencing on the day planning permission for that development is granted or modified. Therefore, as part-retrospective permission was granted in this case, the general rule in Regulation 7(2) is displaced and the correct commencement date should be taken as the date of the grant of planning permission, which in this case was 25 June 2020.
- 5. In these circumstances, I am satisfied the Council has determined the correct deemed commencement date. The appeal fails accordingly.

Formal decision

6. For these reasons, the appeal is dismissed.

K. McEntee