



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 6 September 2023

Appeal ref: APP/U1105/L/23/3323031

Land at [REDACTED]

- 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 East Devon District Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- Planning permission was granted on 11 May 2021.
The description of the development is: [REDACTED].
- A Liability Notice was served on 10 August 2021.
- A Demand Notice was served on 28 April 2023.
- The alleged breaches to which the surcharges relate are the failure to assume liability and the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to assume liability is [REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The determined deemed commencement date given in the Demand Notice is 30 June 2021.

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

Reasons for the decision

1. An appeal under regulation 118 is that the Collecting Authority (Council) determined an incorrectly deemed commencement date. However, I note from his supporting arguments that the appellant makes clear that his sole purpose for appealing is to challenge the CIL in general. I should point out that the Planning Inspectorate has no authority to determine appeals against a CIL charge. Such an appeal should be made to the Valuation Office Agency within 60 days of the Liability Notice, after first requesting a review from the Council in accordance with Regulation 113. The Inspectorate can only consider appeals in relation to CIL surcharges and on the ground made. With that in mind, the determined deemed commencement date given in the Demand Notice is 30 June 2021, but the appellant states that commencement took place on 21 March 2022. However, I note that the appellant hasn't provided any supporting documentary evidence to demonstrate that to be the case.
2. Therefore, on the evidence before me, I cannot be satisfied that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal fails accordingly.

Formal decision

3. For the reasons given above, the appeal is dismissed and the surcharges of [REDACTED] and [REDACTED] are upheld.

K McEntee