



Appeal Decision

by Ken McEntee

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

Decision date: 7 September 2023

Appeal ref: APP/P3610/L/23/3324430

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 Epsom & Ewell Borough Council.
- The relevant planning permission to which the CIL surcharge relates is [REDACTED].
- Planning permission was granted on 7 May 2020.
The description of the development is: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- A Liability Notice was served on the applicant for planning permission [REDACTED] on 13 May 2020.
- A revised Liability Notice was served on the appellant on 7 June 2023.
- A Demand Notice was served on the appellant on 7 June 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 12 December 2022.

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

Reasons for the decision

1. An appeal under CIL Regulation 118 is that the Collecting Authority (Council) determined an incorrectly deemed commencement date. However, it appears from her supporting arguments that the appellant's case is more that she was unaware of the CIL liabilities attached to the land as she contends that she was not informed of such by the previous owner of the site. However, a Liability Notice was served on the previous owner on 13 May 2020. This notice will have been registered as a local land charge at the time it was served, which the Council are obliged to do under the local land charges Act 1975. Such a charge binds the land, and any purchaser or owner of the property are deemed to have full knowledge of any burden attached to the land by virtue of the registration. As works began on the development without a Commencement Notice having been submitted, the appellant became liable for CIL and CIL surcharges with immediate effect.

2. Turning to the ground of appeal before me, which is that the Council has incorrectly determined the deemed commencement date, I can only assume this ground was made in error as no alternative commencement date has been provided. Nevertheless, it is clear that the Council obtained the date of 12 December 2022 from the Commencement Notice submitted by the appellant on 2 June 2023. Therefore, on the evidence before me, I cannot conclude that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. Consequently, while I have sympathy with the appellant's current financial situation, I have no option but to dismiss the appeal.

Formal decision

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

K McEntee