



Appeal Decision

A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/P1133/L/20/3274888

Land at [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended) (hereinafter "the CIL Regs").
 - The appeal is brought by [REDACTED] against surcharges imposed by Teignbridge District Council.
 - Planning permission was granted on 8 September 2020.
 - The relevant planning permission to which the CIL surcharge relates is [REDACTED].
 - The description of the development is: "[REDACTED]".
 - A Liability Notice ("the LN") was served on the appellant's agent on 9 September 2020.
 - A Demand Notice ("the DN") was served on 27 April 2021.
 - The alleged breaches are the failure to assume liability and the failure to submit a Commencement Notice ("the CN") 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 CN is [REDACTED].
 - This Decision replaces the one issued on 22 December 2022. That decision was quashed and remitted for redetermination by Consent Order of the High Court dated 21 June 2023.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. On 25 July 2023, The Planning Inspectorate invited the appeal parties to submit any further representations following the High Court's Consent Order. The deadline being 21 days from the date of that letter. I will consider the written representations.

Reasons

3. An appeal under Regulation 117(1)(b) is that the Collecting Authority ("the CA") failed to serve a LN in respect of the development to which the surcharge relates. The CA claims that they sent a copy of the LN by e-mail communication to the appellant's agent on 9 September 2020: a copy of the relevant e-mail was tendered in evidence. However, the appellant claims that the communication was not received by the agent.
4. CIL Regs 65(3)(a) is explicit. It makes clear that a LN must be served on the relevant person as defined in CIL Regs 65(12). A 'relevant person' is clearly defined as the person who applied for planning permission¹. There is no dispute between the appeal parties that the person who applied for planning

¹ See CIL Regs 65(12) and sub-section (c).

permission was the appellant and consequently the 'relevant person'. The application form is clear and was probably completed by an agent acting on behalf of the appellant. Therefore, the CA were right on relying on the information provided on the form and a LN was required to be served on the appellant.

5. Serving a LN to the appellant's agent by electronic means, which the CA did do, sufficiently satisfies service in accordance with CIL Regs 126(1)(e). This clause refers to service "where an address for service using electronic communications has been given..."
6. As part of judicial review proceedings against the previous decision before it was formally quashed by Consent of the High Court, the CA disclosed a complete copy of the planning application form which demonstrates that an email address had been given on the application form.
7. In view of the above, I conclude that a LN was correctly served and consequently the alleged breaches that led to the surcharges did occur.

Formal decision

8. On the particular facts and circumstances of this case and evidence before me, as well as for the reasons given above, the appeal is dismissed and the surcharges of [REDACTED] and [REDACTED] are upheld.

A U Ghafoor

Inspector