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# Appeal Decision

by Ken McEntee

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

Decision date: 21 September 2023

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**Appeal ref: APP/G3300/L/23/3325357**

**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 a surcharge imposed by Somerset 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]
- A Liability Notice was served on 12 June 2023.
- A Demand Notice was served on 16 June 2023.
- The alleged breach to which the surcharge relates is the failure to submit a valid Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to submit a Commencement Notice is [REDACTED].
- The determined deemed commencement date given in the Demand Notice is 12 June 2023.

**Summary of decision: The appeal is dismissed and the surcharge is upheld.**

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## Reasons for the decision

1. An appeal under CIL Regulation 118 is that the Collecting Authority (Council) determined an incorrectly deemed commencement date. In this case, the Council deemed the commencement date to be 12 June 2023 as that is the date stated in the Commencement Notice. The appellant contends that this date was given in error and the correct commencement date was actually 16 June 2023. He explains that this was a simple clerical error which came at a time when he was having to deal with difficult personal family matters. In view of this, he requests that the surcharge be rescinded. However, while I have sympathy with the appellant if he made a simple error and I in no way wish to appear dismissive of the stressful personal circumstances he has had to cope with, I am afraid I have no authority to consider mitigation and can only determine the appeal on its facts. With that in mind, irrespective of the reason, it is a matter of fact that a Commencement Notice was submitted by e-mail on 16 June 2023, but dated 12 June 2023 and stating a Commencement Notice date also of the of 12 June 2023. Therefore, this does not meet the requirement of CIL Regulation 67(1), which explains that such a notice must be submitted no later than the day before the day on which the chargeable development is to be commenced.

2. In view of the information the Council had before them, I cannot conclude that they issued a Demand Notice with an incorrectly determined deemed commencement date. Consequently, while I have sympathy with the appellant's situation, on the evidence before me I have no option but to dismiss the appeal.

**Formal decision**

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

*K McEntee*