



Appeal Decision

by Ken McEntee

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

Decision date: 12 January 2024

Appeal ref: APP/D2320/L/23/3330871

Land at [REDACTED]
[REDACTED]

- The appeal is made under Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against the determined deemed commencement date given by Chorley Borough Council.
- The relevant planning permission is [REDACTED]
- Planning permission was granted on 23 September 2022.
- The description of the planning permission is: "[REDACTED]
[REDACTED]
[REDACTED]".
- Separate Liability Notices for phases 3 and 4 were served on 27 September 2022.
- Separate Demand Notices for phases 3 and 4 were served on 12 September 2023.
- The determined deemed commencement date given in the Demand Notice is 1 August 2023.

Summary of decision: The appeal is dismissed.

Reasons for the decision

1. An appeal under CIL Regulation 118 is that the Collecting Authority has issued a Demand Notice with an incorrectly determined deemed commencement date. However, it appears clear in this case that the basis of the appeal is that the development has not begun at all, rather than the deemed commencement date being incorrect. Nevertheless, it is clear, and not disputed by the appellants, that demolition works have taken place on the site, but the appellants contend that such works took place solely for health and safety purposes. They argue that the timber buildings were in poor condition, and they had a duty of care to mitigate risk, particularly as they were experiencing problems with trespassers entering the site. Therefore, it was a matter of good housekeeping rather than commencing works on the approved development.
2. While I have sympathy with the appellants arguments, as with a previous appeal decision cited by the Council, I have to point out that the CIL regime is not concerned with whether or not a development has begun with other purposes in mind, it is only concerned with whether it has commenced as a matter of fact. There is nothing in the CIL Regulations which requires the commencement to be intentional. The trigger for CIL is the carrying out of a material operation. It is not disputed that a material operation has taken place in this case, intentionally or

otherwise, in the form of the demolition works as defined in section 56(4)(aa) of the Town & Country Act 1990. The carrying out of demolition for health and safety reasons does not detract from the fact that the result of such works was the commencing of development, particularly as demolition formed part of the permission. It is unfortunate that the appellants did not contact the Council first to inform them of their intentions.

3. On the evidence before me, I am satisfied that works have begun on the chargeable development, and I have no reason to believe the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal fails accordingly.

Formal decision

4. For the reasons given above, the appeal is dismissed.

K McEntee