



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal Ref: APP/L5240/L/23/3332508

Land at [REDACTED]

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) and (b) of the Community Infrastructure Levy Regulations 2010 (as amended)(the Regulations).
 - The appeal is made by [REDACTED] against a CIL surcharge imposed in the Demand Notice ('the DN') by the Collecting Authority the Council of the London Borough of Croydon.
 - The relevant planning permission to which the CIL relates is 21/04218/FUL.
 - The description of the development is described on the DN as follows: [REDACTED]
[REDACTED]
[REDACTED].
 - A Liability Notice (the 'LN') was served on 11 October 2021. The total amount of CIL payable is [REDACTED].
 - The DN was issued on 1 November 2023. The following surcharges were imposed: [REDACTED] for a failure to submit a commencement notice (hereinafter 'CN'). The total amount payable is [REDACTED].
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Decision

1. The appeal is dismissed, and the surcharge upheld.

Reasons for the Recommendation

2. The appeal is made on the following grounds:
 - a) that the alleged breach which led to the surcharge did not occur;
 - b) that the collecting authority failed to serve a LN in respect of the development to which the surcharge relates.

Ground A

3. The appellant submitted a CIL Form 6 on 22 August 2023 informing the collecting authority development would commence on 1 September 2022, and the issued DN states that date as the deemed commencement date. There is no evidence before me to indicate that work had not started in September 2022. The documents seem to indicate that work on implementing the planning permission for chargeable development commenced about a year prior to the submission of CIL Form 6. Clearly, such sequence of events is contrary to Regulation 67(1), which requires a CN must be submitted to the collecting authority no later than the day before the day on which the chargeable development is to be commenced. On this basis the alleged breach which led to the surcharge did occur.
4. The appellant contacted the collecting authority by electronic mail on 18 August 2023 stating: '*Please be advised that work has started on building [REDACTED].*' It is unclear as to what is meant by "...work has

started..." because the appellant's own CIL Form 6 indicates commencement date as 1 September 2022. If that was inaccurate, the submitted form should have been promptly withdrawn and a new one issued pursuant to Regulation 67(7). Furthermore, the email notification does not qualify as a valid CN.

Ground B

5. The challenge is that the collecting authority failed to serve a LN in respect of the development to which the surcharge relates. However, the LN was served on 11 October 2021 on the appellant and sent to the same address as the grant of planning permission. The notice complies with section 65 of the Regulations.
6. The appellant states that they did not receive an invoice for payment. The LN informs the relevant person the amount for which they are liable and was served on 11 October 2021. Furthermore, a valid CN triggers the production of a DN, which was served on 1 November 2023; served to the site address and was due in full upon receipt. As such I conclude that all notices from the chargeable authority were served appropriately.

Other matters

7. The amount and method of calculation of the CIL charge is questioned. However, the appellant should have requested a review pursuant to Regulation 113.

Conclusion and Recommendation

8. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S. Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

A U Ghafoor

INSPECTOR