



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/D0840/L/23/3333547

- The appeal is made under the Planning Act 2008 Section 218 and under the Community Infrastructure Levy Regulations 2010 (as amended) (CIL 2010) section 117(a).
- The appeal is made by [REDACTED] on behalf of [REDACTED] against a Demand Notice (DN) issued by the Collecting Authority (CA), Cornwall Council.
- The relevant planning permission to which the CIL relates is [REDACTED].
- The description of the development is described on the DN as follows: [REDACTED].
- A Liability Notice (the 'LN') was served on 20 October 2020. The total amount of CIL payable is [REDACTED].
- The DN was issued on 03 November 2023. The following surcharges were imposed: [REDACTED] for a failure to assume liability, [REDACTED] for a failure to submit a commencement notice (hereinafter CN). The total amount payable is [REDACTED].

Decision

1. The appeal is dismissed, and the surcharges are upheld.

Reasons for the Recommendation

2. The appeal is made on the ground that the alleged breaches which led to the surcharges did not occur. Development was deemed to have commenced 31 January 2023. The appellant concedes that demolition works were undertaken but that they were not aware the work falls within the scope of a material operation for the purposes of CIL 2010. The claim is that they had not commenced the chargeable development because they only demolished existing structures on the site.
3. In accordance with CIL 2010 s7(2), development is to be treated as commencing on the earliest date on which any material operation begins to be carried out on the relevant land. CIL 2010 s7(6) provides that 'material operation' has the same meaning as in the Town and Country Planning Act 1990 (as amended). Section 56(4)(aa) defines demolition as a material operation. Therefore, the chargeable development commenced with the demolition works.
4. Section 83(1) (CIL 2010) sets out that where a chargeable development has commenced before the CA has received a valid commencement notice in respect of the chargeable development then the CA may impose a surcharge equal to 20 per cent of the chargeable amount payable or [REDACTED], whichever is the lower amount. The appellant does not dispute that they did not submit a valid CN.
5. Section 80 (CIL 2010) states that: A CA may impose a surcharge of [REDACTED] on each person liable to pay CIL in respect of a chargeable development if—
 - (a) nobody has assumed liability to pay CIL in respect of the chargeable development;and

(b)the chargeable development has been commenced.

There is no evidence submitted that demonstrates that the assumption of liability had occurred prior to commencement.

6. I therefore conclude that the breaches which led to the surcharges did occur and the application of the surcharges are valid.

Conclusion and Recommendation

7. 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

8. 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