



Appeal Decision

by Ken McEntee

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

Decision date: 8 May 2024

Appeal ref: APP/T5720/L/24/3339676

Land at Holt Lodge, 170 London Road, Morden, SM4 5AN

- The appeal is made under Regulation 117(1)(a), (b) and (c) and Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by the London Borough of Merton.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- Planning permission was granted on 18 August 2017.
- The description of the development is [REDACTED]
[REDACTED]
[REDACTED]
- A Liability Notice was served on 4 April 2018.
- A Demand Notice was served on 13 April 2018.
- A revised Demand Notice was served on 23 February 2021.
- A revised Demand Notice was served on 3 November 2022.
- A revised Demand Notice was served on 26 January 2024.
- The alleged breach which led to the surcharges is the failure to pay the CIL by the due date.
- The outstanding CIL charge (including surcharges) demanded is [REDACTED].
- The determined deemed commencement date given in the Demand Notice is 16 April 2018.

Summary of decision: The appeal is dismissed on all grounds made and the surcharges are upheld.

The appeal under Regulation 117(1)(a), (b) and (c)

1. A previous appeal¹ was made against the Demand Notice (DN) issued on 3 November 2022 on the same grounds as this appeal, except this one has added ground 118². I dismissed that appeal in relation to (1)(a) and (b) under Regulation 117 but allowed the appeal on ground (1)(c) concerning the calculation of the late payment surcharges. I concluded that the late payment surcharges had been incorrectly calculated and explained what the correct surcharges should be. The Collecting Authority (Council) duly issued a revised DN on 26 January 2024 (the subject of this appeal) incorporating the correct surcharges as they were entitled to do in accordance with Regulation 69(4). The appellant has appealed against the revised notice on the same grounds (plus 118) and with the same supporting arguments as the previous appeal, even though those grounds and arguments have already been tested. As no new evidence has been submitted in support of those grounds, I see no good reason to revisit them as

¹ APP/T5720/L/22/3312360

² That the CA has issued a DN with an incorrectly determined deemed commencement date

they have already been considered and concluded on. Therefore, the appeal on grounds 117(1)(a), (b) and (c) is dismissed.

2. The appellant refers to the different sums within the DNs issued and “double payments”. I should point out, that whenever a revised DN is issued, any previous DN ceases to have effect. Nevertheless, I can only suggest that the appellant may wish to contact the Council if he wishes to seek further clarification on this matter.

The appeal under Regulation 118

3. Although this ground has been appealed, the appellant has submitted no supporting evidence to justify it and has not even stated what he considers to be the correct date of commencement. As the Council point out, the date of 16 April 2018 was taken from the appellant’s Commencement Notice submitted on 18 April 2018. Therefore, there is no evidence before me to suggest the determined deemed commencement date given in the DN is incorrect.

Formal decision

4. For the reasons given, the appeal on all grounds made is dismissed, and the late payment surcharges are upheld.

K McEntee