



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/C1245/L/24/3340435

- The appeal is made under section 218 of the Planning Act 2008 and under the Community Infrastructure Levy Regulations 2010 (as amended) (CIL 2010) section 117(a).
 - The appeal is made by [REDACTED] against a Demand Notice (the 'DN') issued by Dorset Council, the Collecting Authority (CA).
 - The relevant planning permission to which the Community Infrastructure Levy (CIL) relates is [REDACTED].
 - The description of the development is described on the DN as follows: [REDACTED]
[REDACTED]
[REDACTED]
 - A zero-rated Liability Notice (the 'LN') was served on 7 May 2021.
 - The DN was issued on 27 February 2024. 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 ground 117 (a); that the alleged breach which led to the surcharge did not occur.
3. A zero-rated LN was served on 7 May 2021. The zero rating was due to the application of an exemption for self-build under section 54A CIL 2010 being applied. Prior to the exemption being applied the CIL chargeable amount payable would have been [REDACTED] and was clearly shown on the LN.
4. The appellant submitted a CIL Form 7 Self-Build Part 1 Claim Form on 19 February 2020. The appellants agent submitted a CIL Form 1 Assumption of Liability on the appellants behalf on 19 February 2020. The appellant states that they were unaware of the CIL liabilities and that they were in the hands of the professionals. The appellant is clearly aware of their liability due to the assumption of liability and application for an exemption. The exemption was for a not insignificant sum and due the upmost attention.
5. Section 54B(6) CIL 2010 clearly sets out that: '*A person who is granted an exemption for self-build housing ceases to be eligible for that exemption if a commencement notice is not submitted to the collecting authority before the day the chargeable development is commenced.*'¹ An email is provided as evidence showing that on 7 May 2021 the appellant's agent was made aware that a failure to submit a CN would result in a surcharge being applied.

¹ s54B(6) The Community Infrastructure Levy Regulations 2010 (as amended)

6. 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. There is no dispute between the parties that the chargeable development had commenced on or before 17 October 2023.
7. Section 83(1) (CIL 2010) sets out that where a chargeable development has commenced before the CA has received a valid CN in respect of the chargeable development then the CA may impose a surcharge equal to 20 per cent of the chargeable amount payable or £2500, whichever is the lower amount. The CA became aware that the chargeable development was complete and wrote to the appellant 17 October 2023 asking for evidence that a CIL 6 form had been submitted. The appellant does not dispute that chargeable development had been commenced on or before 17 October 2023 and that a valid CIL 6 form had not been submitted prior to commencement.. Section 67(1) CIL 2010, 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.
8. In conclusion, I find that the alleged breach which led to the surcharge did occur and the application of the surcharge is valid. In addition, I find that the exemption for self-build housing ceases to be eligible as a consequence of the failure to submit a valid CIL 6 Form. The total amount payable is the chargeable development amount of [REDACTED] and the surcharge amount of [REDACTED], resulting in a total amount payable of [REDACTED]

Conclusion and Recommendation

9. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed, the exemption withdrawn, and the surcharge upheld.

S. Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

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

A U Ghafoor

INSPECTOR