



Appeal Decision

Site visit made on 18 September 2024

by **A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/G1630/L/24/3345074

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(a), (b), and 118 of the Community Infrastructure Levy Regulations 2010 as amended (hereinafter 'the CIL Regs').
- The appeal is made by [REDACTED] against a Demand Notice (the 'DN') issued by the Collecting Authority, the Tewkesbury Borough Council ('the CA').
- 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 1 May 2024.
- The DN was issued on 23 May 2024 and the deemed commencement date stated is 24 April 2024.
- The total amount CIL payable, including a surcharge for the failure to submit a commencement notice ('CN'), is £[REDACTED].

Decision

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

Reasons

2. The challenge is that the claimed breach which led to the surcharge did not occur and the CA has incorrectly determined the deemed commencement date. The onus is upon the appellant to show material operations on this chargeable development had not commenced at all prior to the submission of a CN pursuant to CIL Regs 67(1). Where the developer fails to comply with the requirement to submit a timely CN, the CA must determine a "deemed commencement date".
3. The appellant company's ground of appeal is that material operations had commenced by April 2024 on the scheme approved in the first planning permission ref [REDACTED]. That scheme is well under way. However, I find that material operations for chargeable development pursuant to planning permission ref [REDACTED] have also commenced. This is because the garage's foundations have been constructed to roughly damp-proof course level. The location of this structure corresponds with the approved plans. It appears to me that the work involved in the construction of the garage and flats had significantly progressed. There is no evidence to make less than credible the weekly Building Control list which shows operations had commenced by 24 April 2024 and so the deemed commencement date is not incorrect. Since a CN had not been submitted, the breach which led to the imposition of the surcharge had in fact occurred.
4. There was some confusion as to who is liable to pay CIL because the 1 May 2024 LN was addressed to an employee of the appellant company. However, the forms were

emailed to the electronic mail addresses given in the relevant planning application and CIL forms. It was also served through Royal Mail's signed for delivery service. The evidence presented clearly shows the CA complied with the CIL Regs in terms of issue and service of the LN.

5. For all of the above reasons, and having regard to all other matters raised, I conclude that the appeal should fail.

A U Ghafoor

Inspector