



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 30 January 2025

Appeal ref: APP/Z1775/L/24/3353155

- The appeal is made under Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Portsmouth City Council.
- The relevant planning permission to which the CIL relates is [REDACTED].
- Planning permission was granted on 21 November 2022.
- The description of the development is: "[REDACTED]".
- A Liability Notice was served on 17 January 2023.
- A Demand Notice was served on the appellant on 6 September 2024.
- The alleged breaches to which the surcharges relate are: the failure to assume liability and to submit a Commencement Notice before starting works on the chargeable development, and the failure to pay the CIL within 30 days of the due date.
- The outstanding surcharge for failing to assume liability is £[REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is £[REDACTED].
- The outstanding surcharge for late payment of the CIL is £[REDACTED].
- The determined deemed commencement date given in the Demand Notice is 18 June 2024.

Summary of decision: The appeal is dismissed and the surcharges are upheld.

Reasons for the decision

1. It appears clear that the basis of the appellant's case is not that the Council has determined the wrong date of commencement as per Regulation 118, but that works have not actually commenced on the development at all. He contends that there was no intention to commence works and that any that were carried out did not require planning permission. The works the Council found to have taken place from a site visit made on 18 June 2024 was the demolition of the garage and conservatory. The appellant asserts that this demolition took place before the planning application was submitted. If that was the case, it's not clear why it was included within the planning application description. Furthermore, as the Council point out, the application would have been considered as retrospective and the permission granted under Section 73A of the Town & Country Planning Act 1990. On the evidence before me, I am satisfied that the works carried out constitute commencement of planning permission [REDACTED]. Once this happened, the appellant became liable for CIL and CIL surcharges with immediate effect. As

the Council also point out, there is nothing in the CIL Regulations which requires commencement to be intentional.

2. In conclusion, I have no reason to believe the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal fails accordingly.

Formal decision

3. For the reasons given above, the appeal is dismissed and the surcharges of £■■■, £■■■■■ and £■■■■■ are upheld.

K McEntee