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# Appeal Decision

by Ken McEntee

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

Decision date: 7 May 2025

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**Appeal ref: APP/X4725/L/24/3352040**

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] and [REDACTED] against the determined deemed commencement date given in the Demand Notice issued by Wakefield Metropolitan District Council.
- The relevant planning permission to which the CIL relates is [REDACTED].
- Planning permission was granted on 26 April 2024.
- The description of the development is as described in the annexe to this decision.
- A Liability Notice was served on 21 May 2024.
- A Demand Notice was served on 22 May 2024.
- A revised Demand Notice was served on 5 September 2024.
- A revised Demand Notice was served on 29 January 2025.
- A surcharge of £[REDACTED] has been imposed for the alleged breach of failing to assume liability.
- The Determined deemed commencement date given in the Demand notice is 26 April 2024.

**Summary of decision: The appeal is dismissed.**

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## Procedural matters

1. Most of the arguments put forward by the appellants concern the imposition of the overall CIL charge (£[REDACTED]), which they believe they are not liable to pay. However, this is not something within my powers to determine. For the avoidance of doubt, the only way the apportionment of liability can be reviewed is by way of an appeal to the Valuation Office Agency under Regulation 115. I can only determine the appeal on the ground made under Regulation 118, which is that the Charging Authority (Council) has issued a Demand Notice with an incorrectly determined deemed commencement date.
2. It appears clear that the appellants are unhappy with the way the Council has dealt with this matter, and I note they have made a case to the Local Government and Social Care Ombudsman.

## Reasons for the decision

3. Planning application [REDACTED] was retrospective, as confirmed by the applicant's agent, as works on the development had already begun. Regulation 7(2) explains that 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. However, Regulation 7(3) explains that this general rule is subject to provisions, such as that stated in Regulation 7(5)(a) where development has already been carried out then granted planning permission under section 73A of the Town & Country Planning Act. In such cases, development is to be treated as commencing on the day planning permission for that development is granted or modified.

4. Therefore, as [REDACTED] was a retrospective permission, the general rule in Regulation 7(2) is displaced and the correct commencement date should be taken as the date of the grant of planning permission, which in this case was 26 April 2024. This is the date the Council have correctly stated in the Demand Notice. Therefore, I am satisfied the Council have not issued a Demand Notice with an incorrectly determined deemed commencement date.
5. In these circumstances, the appeal fails accordingly.

### **Formal decision**

6. For these reasons, the appeal is dismissed.

*K McEntee*

### **Annex to the decision**

Description of the approved development

[REDACTED]