



Appeal Decision

by Ken McEntee

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

Decision date: 22 July 2025

Appeal ref: APP/R3650/L/24/3354675

- 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 Waverley Borough Council.
- The relevant planning permission to which the surcharges relate is [REDACTED], granted on appeal [REDACTED] on 7 May 2024.
- The description of the development is "[REDACTED]".
- A Liability Notice was served on 2 October 2024.
- A Demand Notice was served on 2 October 2024.
- The alleged breaches that led to the surcharges are the failure to assume liability and the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failing to assume liability is £[REDACTED].
- The outstanding surcharge for failing to submit a Commencement Notice is £[REDACTED].
- The determined deemed commencement date given in the Demand Notice is 7 May 2024.

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

Reasons for the decision

1. An appeal under Regulation 118 is that the Collecting Authority (Council) has issued a Demand Notice with an incorrectly determined deemed commencement date. In this case, the Council determined the date to be 7 May 2024 as they consider the development approved was retrospective and therefore the deemed commencement date is the date planning permission is granted, in accordance with Regulation 7(5). However, the appellant disagrees that the permission was retrospective and contends that the correct date should be 24 June 2024 as per the Commencement Notice submitted on 21 June 2024.
2. I consider the Valuation Office Agency's (VOA) Regulation 114 appeal decision ([REDACTED]) of 3 June 2025, to be significant in my determination of this appeal. It is clear that there was previously unlawful residential use of the relevant building, which was enforced against by the Council on 21 April 2021. Although the appellant's agent claimed that the residential use of the building had ceased on 17 January 2023, the VOA decision maker found on the evidence before her that the use of the kitchen and bathroom continued after this date on a daily basis while the appellant and her husband remained living on the site in a campervan. She

therefore concluded that this use exceeded the intended use of the original planning permission (), which by condition, specifically excluded the building from being used as habitable accommodation.

3. Due to this established residential use, it follows that the application and permission granted in relation to this appeal should be considered as retrospective and therefore, in accordance with Regulation 7(5), the deemed commencement date should be taken to be the date planning permission was granted. Consequently, I do not conclude that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal fails accordingly.

Formal Decision

4. For the reasons given above, the appeal on the ground made is dismissed and the surcharges of £ and £ are upheld.

K McEntee