



Appeal Decision

Site Visit on 30 May 2025

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/H1705/L/24/3354134

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 117(1)(a) and 118 of the Community Infrastructure Levy Regulations 2010 (the Regulations).
 - The appeal is brought by [REDACTED] against a demand notice and a surcharge imposed by Basingstoke and Deane Council.
 - The relevant planning permission to which the Community Infrastructure Levy (CIL) relates is [REDACTED].
 - The description of the development is [REDACTED].
 - A Revised Liability Notice (LN) was served on 15 July 2024
 - A Revised Demand Notice (DN)¹ was served on 23 September 2024. The following surcharge was imposed: £[REDACTED] for failing to submit a Commencement Notice before the chargeable development has commenced. The total amount payable is £[REDACTED]
 - The deemed commencement date was 12 June 2024.
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Planning History

1. A Technical Details Consent in respect of the erection of 4 no. dwellings; in accordance with Permission in Principle reference [REDACTED], was granted on appeal on 4 January 2023.
2. A subsequent planning permission under reference [REDACTED] for [REDACTED] was granted on 11 August 2023.
3. A subsequent planning permission, reference [REDACTED], was submitted on 14 May 2023 and granted on 23 August 2024 for the [REDACTED]. This modified the design of the dwelling for Plot 2 increasing the floor area and the footprint of that dwelling.

¹ A DN dated 15 August 2024 with a deemed commencement date of 5 August 2024 preceded the revised one. The total amount payable including surcharges was also £[REDACTED].

Reasons

4. The Charging Authority (CA) refer to the CIL Form 2: Assumption of Liability that was received on 12 July 2024 and the revised Liability Notice LN00000700 was issued to both co-owners [REDACTED] on 15 July 2024.
5. The CA state that it believes that Phase 2 (Plot 2) of planning permission [REDACTED] had commenced, and they became aware of this on 15 August 2024. This was after reviewing photographs taken by the planning application case officer during their site visit of 2 August 2024 when considering a subsequent planning application [REDACTED].
6. The CA considered that in the absence of any other information to evidence of an earlier commencement date at the time of the planning officer's site visit date of 5 August 2024². This is the deemed commencement date in the DN dated 15 August 2024. However, in the Revised DN dated 23 September 2024 the deemed commencement date was set as 12 June 2024. The photographs in Appendix D of the CA evidence include two photographs with an arrow annotated Access to Plot 2 and other annotations. There are other photographs with Plots 1, 3 and 4 identified included in the appendix.
7. An email exchange between the parties sets out that the revised DN deemed commencement date refers to a date in a building notice. The appellants confirm they did not own the land until the 12 July 2024.
8. The appellants state that no chargeable development has been commenced on the site. The only works that have been carried out are stated to be ones which give effect to the revised development the subject of planning application reference [REDACTED]. The appellants acknowledge that these works were carried out in advance of planning permission being granted and did not therefore have the benefit of any planning permission. They state that they were not works to commence the extant planning permission reference [REDACTED].
9. Regulation 7 has effect for determining when development is to be treated as commencing for the purposes of Part 11 of the Planning Act 2008 and CIL Regulations. Regulation 7 (2) states 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. Regulation 7(6) explains that 'material operation' has the same meaning as section 56(4) of the Town and Country Planning Act 1990 (the Act).
10. Regulation 9 defines chargeable development as the development for which planning permission is granted. Regulation 68 states a CA must determine the day on which a chargeable development was commenced (the deemed commencement date) if no commencement notice in respect of the chargeable development has been received but the CA has reason to believe it has been commenced or where the CA believe it was commenced earlier than stated in a commencement notice. The CIL liability is therefore triggered by the commencement of a chargeable development.

² The date of the site visit is given as 5 August 2024 in paragraph 2.6 of the CA evidence and 2 August 2024 in paragraph 2.5. The actual date of the photographs in Appendix D is not stated.

11. I appreciate that there are elements common to the scheme for Plot 2 consented under reference [REDACTED] and that consented under reference [REDACTED]. However, in my view there are clear differences in the two consented schemes. In particular, the ground floor rear additional floorspace in scheme reference [REDACTED]. Photographs provided by the appellants, which are stated to be taken on 18 July 2024, show the preparatory works for filling trenches including the trenches for the additional room of planning permission reference [REDACTED]. Further photographs show concrete foundations laid in accordance with the scheme consented under reference [REDACTED]. These additional photographs have been helpfully annotated to show the foundations follow the ground floor layout of that consented under reference [REDACTED]. It is clear that these photographs show that the foundations were laid out at the same time and included the larger ground floor area of this later consent.
12. I accept that the photographs show that a material operation had taken place on 18 July 2024. However, what is shown are clearly works of a larger building on the ground floor than that which was the subject of planning permission reference [REDACTED]. I therefore accept that the material operation was in connection with a different development to that which was granted planning permission under reference [REDACTED]. I therefore find that the material operation which was carried out was for a development which was not the chargeable development referenced in the revised demand notice and the surcharge.
13. The development that the material operation was undertaken for appears to have been in breach of planning control at the time it was commenced but was subsequently granted planning permission under reference [REDACTED]. This is a standalone planning permission and not the chargeable development set out in the demand notice and the surcharge the subject of this appeal.
14. If an appeal is allowed under Regulation 118 the only determination to be made is set out in Regulation 118(5) which confirms where an appeal is allowed a revised deemed commencement date for the relevant development must be determined.
15. In these circumstances, I find that the chargeable development has not commenced as a matter of fact. I therefore decline to determine the appeal.

Hilda Higenbottam

Inspector