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## Appeal Decision

Site Visit on 4 February 2026

by **Mrs Hilda Higenbottam BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> February 2026

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### Appeal Ref: APP/G3300/L/25/3363558

- The appeal is made under section 218 of the Planning Act 2008 and Regulations 118 of the Community Infrastructure Levy Regulations 2010.
- The appeal is made by [REDACTED] a Demand Notice issued by Somerset Council (the Charging Authority (CA)).
- A Liability Notice (LN) was served on 25 March 2025.
- A Demand Notice (DN) was served on 25 March 2025.
- The chargeable development to which the LN and DN relate is [REDACTED]
- The description of the planning permission [REDACTED] on the decision notice is [REDACTED]

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### Decision

1. The appeal is allowed.

### Preliminary Matters

2. I note that the CA CIL and s106 Monitoring Officer (Somerset North) in an email dated 27 March 2025 refers to submitting an appeal under Regulation 116B to the Planning Inspectorate. The appellants noted that Regulation 116 was not included on the Planning Inspectorate forms and an appeal under Regulation 118 was submitted to the Planning Inspectorate and is the subject of this decision. It should be noted that Regulation 116B appeals which are against the CA calculation of the amount of the exemption for self-build housing should be made to the Valuation Office Agency.

### Appeal under Regulation 118

3. Section 70 of the Town and Country Planning 1990 Act as amended (the Act) states:

**70.— Determination of applications: general considerations.**

(1) Where an application is made to a local planning authority for planning permission—

(a) .... they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or

(b) they may refuse planning permission.

4. The guidance in the National Planning Policy Guidance states:

### **Can a local planning authority amend the description of development?**

Before publicising and consulting on an application (<https://www.gov.uk/guidance/consultation-and-pre-decision-matters>), the local planning authority should be satisfied that the description of development provided by the applicant is accurate. The local planning authority should not amend the description of development without first discussing any revised wording with the applicant or their agent. Checking the accuracy of the description of development should not delay validation of an application.

Paragraph: 046 Reference ID: 14-046-20140306 Revision date: 06 03 2014

5. The application form for planning application reference [REDACTED] records at section 3 the description of development as [REDACTED]  
[REDACTED]  
[REDACTED] Furthermore, section 3 also confirmed that the building, work or change of use had not started and it had not been completed.
6. Somerset Council issued a validation letter, dated 23 September 2024, confirming the same description of development. The letter stated that if the applicant disagreed with the description that they should contact the Case Officer.
7. Before determining the application reference [REDACTED], Somerset Council amended the description of development. The planning permission notice reference [REDACTED] described the development as [REDACTED]  
[REDACTED]  
[REDACTED]
8. The appellants state that the amended description was not discussed or agreed with them. Based on the evidence before me, it is more likely than not that Somerset Council changed the description of development unilaterally. The Act provides no power for a local planning authority to amend the description of development without the applicant(s) agreement.
9. In my view therefore, the correct description of the chargeable development should therefore be the one on the original application form which was [REDACTED]  
[REDACTED]  
[REDACTED] I have determined the appeal on that basis.

#### *Has the development commenced?*

10. 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. 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).
11. Section 56(2) of the Act states that development is taken to have begun on the earliest date on which any 'material operation' comprised in the development begins to be carried out. Material operations are defined under subsection 4 and constitute, in the main, forms of operational development except for paragraph (e) which includes any change in the use of any land where the change constitutes material development.

12. The approved drawings for planning permission reference [REDACTED] include Drwg No FL 2108-1 entitled 'As Existing' and Drwg No FL 2108-2 entitled 'As Proposed'. At my site visit I saw that the structures on site were as shown on Drwg No FL 2108-1 entitled 'As Existing' including a gable roof element and some openings in the western elevation of the long barn, which runs norther to south on the plot.
13. The approved 'As Proposed' drawings show extensions, openings to be glazed, sliding doors, internal alterations and subdivisions amongst other things. I noted that the window opening to the study is in the same place as an opening in the 'As Existing' approved drawings.
14. The appellants carried out repairs to a collapsing roof in 2023. The submitted photographs dated 29 July 2023 are before those works were undertaken and the ones dated 27 October 2023 show works well advanced. In my view, these works were undertaken well in advance of the submission of the planning application for the chargeable development granted under reference [REDACTED] and did not form part of those proposals.
15. I appreciate works were undertaken to some structures on site, but these were prior to the Drwg No FL 2108-1 entitled 'As Existing' being drawn and the appellants state that they had undertaken repair to the roof of a building which was collapsing in 2023. I have no substantiated evidence before me to demonstrate that those works of repair amounted to anything that would have required planning permission. Moreover, the works that were undertaken, even if they did amount to development requiring planning permission, have not been demonstrated to have been works that amounted to a 'material operation' with respect to the chargeable development granted planning permission under reference [REDACTED].
16. The CA relies on the Officer's report as demonstrating that the chargeable development had commenced. In that report it is stated '*Whilst the application form does not state that works have commenced, the officer's site visit on 18<sup>th</sup> October 2024 confirms that the development has commenced.*' No further details are given in relation to this statement. The CA also rely upon the absence of a time limit condition on the planning permission, as supporting this assessment that the development had commenced.
17. In relation to the evidence provided by the CA I have no substantiated evidence to demonstrate what works were carried out that the Officer saw on their site visit which led them to conclude that development had commenced. There is no substantiated evidence that the amended description of development was agreed with the appellants. The absence of a condition relating to time limits is not determinative of development having been commenced. Under section 91 of the Act if the local planning authority grants planning permission it is deemed to be granted subject to a condition that sets the time limit within which the development must begin. The relevant time limit for beginning development is not later than the expiration of 3 years beginning on the date when the permission is granted or such other period as the local planning authority may impose.
18. On the balance of probabilities, on the evidence before me, I consider that there has not been a material operation pursuant to planning permission reference [REDACTED]. Therefore, I find that the chargeable development had not commenced on the date the CA stated in the DN.

*Conclusion*

19. It therefore follows that the deemed commencement date is incorrect and the appeal under Regulation 118 is allowed. In accordance with Regulation 118(4) the Demand Notice ceases to have effect.

*Hilda Higenbottam*

INSPECTOR