The Planning Inspectorate

Appeal Decision

by Ken McEntee

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

Decision date: 12th November 2026

Appeal ref: APP/L5240/L/25/3376017

[redacted]

- The appeal is made under section 218 of the Planning Act 2008 and Regulation118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [redacted] against the determined deemed commencement date given by the London Borough of Croydon.
- The relevant planning permission to which the appeal relates is [redacted]
- The description of the development is: "[redacted]
- Planning permission was granted on 13 September 2024.
- A Liability Notice was served on 30 September 2025.
- A Demand Notice was served on 22 October 2025.
- The Demand Notice included a surcharge for the alleged breach of the failure to submit a Commencement Notice before starting works on the chargeable development.
- The outstanding surcharge for failure to submit a Commencement Notice is [redacted].
- The determined deemed commencement date given in the Demand Notice is 17 April 2020.

Summary of decision: **The appeal is allowed but the surcharge is upheld.**

Procedural matters

1. An application for costs has been made by the appellant against the Collecting Authority (Council). This is the subject of a separate decision attached to this one.

2. The appellant submits arguments in relation to proof of the service of a Liability Notice (LN) of 17 October 2020. However, that notice relates to the original planning permission [redacted] so is not a matter to consider in this appeal, which concerns permission [redacted] The appellant has not made an appeal under Regulation 117(1)(b), claiming that the Council failed to serve a LN in relation to that permission.

3. As well as the alleged breach of failing to submit a Commencement Notice (CN), the Council refer to an alleged breach of failing to assume liability. However, the Demand Notice (DN) does not appear to include a corresponding surcharge for that breach.

Reasons for the decision

4. An appeal under Regulation 118 is that the Council issued a DN with an incorrectly determined deemed commencement date. The date given in the DN is 17 April

2020. The Council contend that the commencement date was lawfully determined in accordance with Regulation 68(a) as no CN was received before works commenced. However, it is noted they have determined the date to be that of the planning decision and the LN in relation to the original permission granted under [redacted]. However, while that permission is clearly linked, the relevant planning permission that is the subject of this appeal is [redacted]

5. With that in mind, I agree with the appellant's arguments in relation to the fact that the relevant permission was granted under section 73A of the Town & County Planning Act 1990 as retrospective. 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 and 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. Therefore, as retrospective permission was granted in this case, 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 13 September 2024.

6. I conclude that the Council have issued a DN with an incorrectly determined deemed commencement date. Consequently, the appeal succeeds and, in accordance with Regulation 118(4), the DN ceases to have effect. Should the Council decide to continue to pursue the CIL, they must issue a revised DN in accordance with Regulation 69(4).

7. While I am allowing the appeal, I will not be using my powers under Regulation 118(6) to quash the surcharge, which was imposed for the failure to submit a CN before starting works on the chargeable development. As the works applied for were granted retrospectively, it simply was not possible for a valid CN to be submitted as required by Regulation 67(1). However, by not carrying out the original planning permission strictly in accordance with the original approval, it follows that this was effectively a situation of the appellant's own making.

Formal decision

8. For the reasons given above, the appeal is allowed on the ground made but the surcharge of [redacted] is upheld.

K McEntee