
Appeal Decision

by Ken McEntee

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

Decision date: 7th March 2023

Appeal ref: APP/A1910/L/21/3303032

Land at Former Fairydeil Farm, Rucklers Lane, Kings Langley, Herts, WD4 9LF

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by Mr L DeGale (JLD Property Ltd) against surcharge imposed by Dacorum Borough Council.
- Planning permission was granted on 2 August 2021.
- A Liability Notice was served on previous land-owners, Millen Homes on 11 August 2021.
- A Demand Notice was served on the appellant on 23 November 2021.
- The relevant planning permission to which the CIL surcharge relates is 21/02234/FUL.
- The description of the development is: "Demolition of detached dwelling and construction of 2no dwellings (amended scheme)".
- The alleged breach to which the surcharge relates is 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 £2,500.

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

Reasons for the decision

1. An appeal under Regulation 117(1)(a) is that the alleged breach that led to the surcharge did not occur. Regulation 67(1) of the CIL regulations explains that a Commencement Notice (CN) must be submitted to the Collecting Authority (Council) no later than the day before the day on which the chargeable development is to be commenced. In this case, the appellant contends that he instructed his agent to draft a letter to the Council on 12 November 2021 accompanied with a CN stating the intended commencement date as 22 November 2021 and have provided a copy of the CN. However, the Council have provided e-mail evidence that the CN was not actually received until 23 November 2021. That being the case, it follows that the CN was not received no later than the day before the day on which the chargeable development is to be commenced as required by Regulation 67(1) and is therefore not valid.
2. On the evidence before me, I have no option but to conclude that the alleged breach occurred as a matter of fact. The appeal fails accordingly.

Formal decision

3. For the reasons given above, the appeal is dismissed and the surcharge of £2,500 is upheld.

K McEntee