



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/P0119/L/23/3332908

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 118 of the Community Infrastructure Levy Regulations 2010 as amended.
- The appeal is made by [REDACTED] against a Demand Notice (the 'DN') issued by the Collecting Authority (the CA), South Gloucestershire Council.
- The relevant planning permission to which the CIL relates is [REDACTED].
- The description of the development is described on the DN as follows [REDACTED].
- A Liability Notice (the 'LN') was served on 20 April 2023. The total amount of CIL payable is [REDACTED].
- The revised DN was issued on 12 December 2023. The following surcharges were imposed: [REDACTED] for a failure to assume liability, [REDACTED] for a failure to submit a commencement notice (hereinafter 'CN'). The total amount payable is [REDACTED].

Decision

1. The appeal is allowed.

Reasons for the Recommendation

2. An appeal under Regulation 118 is that the CA has issued a DN with an incorrectly determined deemed commencement date. The CA served a revised DN on 12 December 2023 giving a deemed commencement date of 14 April 2023, the date of the original planning permission.
3. The CA's evidence states that a CIL Compliance Officer visited the appeal site on 30 October 2023 determining that material operations had in fact commenced. The CN submitted by the Appellant, dated 7 November 2023 gives a commencement date of 3 August 2023. Within the appeal form, the Appellant corrects this, stating that relevant development commenced on 31 August 2023 following the discharge of pre-commencement conditions. There is no evidence to cast doubt on that claim. In the absence of evidence to the contrary, I recommend significant weight is given to the appellant's claim that relevant development commenced on 31 August 2023.
4. In these circumstances, the appeal under Regulation 118 succeeds and, in accordance with Regulation 118(4), the DN ceases to have effect. The CA must now serve a revised DN with a deemed commencement date of 31 August 2023 as required by Regulation 69(4).

Other Matters

5. The appellant raises concerns about the LN and imposition of surcharge. The appellant did not select ground 117 sub (a), (b) or (c). For completeness, I will address these points under this section.

6. Notwithstanding the above, both parties agree that chargeable development had commenced prior to the CA receiving a valid Assumption of LN or CN required under Regulations 31(1) and 67(1) respectively. As such, there had been a breach of the Regulations and 80 and 83(1) allow the CA to impose surcharges.
7. The CA have provided an email dated 20 April 2023 containing the LN, sent to the agent acting on behalf of the appellant at the time. Furthermore, the Appellant confirms receipt of this email on 20 April 2023 within the appeal form. Therefore, the LN was served in accordance with Regulation 126(1).

Conclusion and Recommendation

8. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Signed

N Unwin

Inspector's Decision

9. I have considered all the submitted evidence and the Appeal Planning Officer's report. I am satisfied with the recommendation made and the Regulation 118 appeal is allowed, and the revised deemed commencement date is 31 August 2023. I am also satisfied with the way in which "other matters" are addressed. Had there been a Regulation 117 appeal, it would have been dismissed.

A U Ghafoor

INSPECTOR