



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/D0840/L/23/3331892

- The appeal is made under section 218 of the Planning Act 2008 and Section 117(1)(b) of the Community Infrastructure Levy Regulations 2010 (as amended)(the Regulations).
- The appeal is made by [REDACTED] against a Demand Notice (the 'DN') issued by the Collecting Authority, Cornwall 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]
[REDACTED]
[REDACTED]
- A Liability Notice (the 'LN') was served on 26 April 2022. The total amount of CIL payable is [REDACTED]
- The DN was issued on 20 September 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]
- An amended LN and DN was served on 9 October 2023 deducting Regulation 80 surcharge. The total amount payable is [REDACTED]

Decision

1. The appeal is dismissed, and the surcharge upheld.

Reasons for the Recommendation

2. The appellant appeals on the ground that the collecting authority failed to serve a LN in respect of the development to which the surcharge relates.
3. The LN was served on the applicant for the chargeable development, [REDACTED], on 26 April 2022 by post to the address given in the planning application in accordance with the Regulations section 126(1)(b)(c). Furthermore, a copy was sent to the applicant's agents by email on 26 April 2022 in accordance with CIL section 126(1)(e).
4. Additionally, the LN was registered as a local land charge at the time it was served, which the Council are obliged to do under the local land charges Act 1975. Such a charge binds the land, and any purchaser or owner of the property are deemed to have full knowledge of any burden attached to the land by virtue of the registration. The wording of Regulation 117(1)(b) is not personalised for this reason. Therefore, I am satisfied that a LN was correctly served by the collecting authority and consequently the appellant should have been aware of the CIL responsibilities and procedures as explained in the notice, such as the need to submit a CN before starting works on the development. I note that the appellant does not refute that a valid CN was not submitted until after the commencement date.

Conclusion and Recommendation

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

S. Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

6. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

A U Ghafoor

INSPECTOR