



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2024

Appeal Ref: APP/E3335/L/23/3336215

- The appeal is made under section 218 of the Planning Act 2008 and Regulation 117(1)(a) and 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), Somerset 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]
[REDACTED]
- A revised Liability Notice (the 'LN') was issued on 28 November 2023. The total amount of CIL payable is [REDACTED].
- The DN was issued on 28 November 2023. The following surcharge was imposed: [REDACTED] for a failure to submit a commencement notice (hereinafter 'CN'). The total amount payable is [REDACTED].

Decision

1. The appeal is dismissed, and the CA's deemed commencement date and the surcharge upheld.

Preliminary Matters

2. As the outcome of CIL Regs 118 has a bearing on the 117(a) appeal, I shall evaluate the former first.

Reasons for the Recommendation

Appeal under Regulation 118

3. An appeal under Regulation 118 is that the CA has issued a DN with an incorrectly determined deemed commencement date.
4. The appellant originally submitted a CN dated 21 November 2023 with a commencement date of 20 November 2023 given. Following an email exchange with the CA, within which the appellant states that works had commenced that day, a revised CN was dated the same day as the specified commencement date, 21 November 2023.
5. Whilst the appellant disputes that works commenced on the 21 November 2023 and that witnesses can be provided; they have not submitted any evidence that contradicts the commencement date given within the revised CN. I therefore recommend significant weight is given to the appellant's claim within the email dated 21 November 2023 and revised CN, that material operations commenced on 21 November 2023.
6. For the reasons set out above, the appeal under Regulation 118 fails.

Appeal under Regulation 117(a)

7. An appeal under CIL Regulation 117(1) (a) is that the claimed breach which led to the imposition of the surcharge did not occur. Regulation 67(1) requires a CN to be submitted to the CA no later than the day before the day on which the chargeable development is to be commenced. As set out above, both commencement dates given by the appellant were prior to, or the same day as, the submission date of the CN. As such, neither CN complies with Regulation 67(1).
8. A revised LN dated 28 March 2023 clearly sets out the requirement to notify the CA of the intended date development is to be commenced before development commences, through the submission of a valid CN. Furthermore, ignorance of the Regulations is not a valid reason for non-compliance. The appellant should have been aware of the CIL responsibilities and procedures.
9. For the reasons set out above, the appeal under Regulation 117(a) fails.

Conclusion and Recommendation

10. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed, and the CA's deemed commencement date and the surcharge upheld.

Signed

N Unwin

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed, and the CA's deemed commencement date and the surcharge upheld.

A U Ghafoor

INSPECTOR