



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/V2635/L/24/3342023

- The appeal is made under the Planning Act 2008 Section 218 and under the Community Infrastructure Levy Regulations 2010 (as amended)(CIL 2010) sections 117(1)(a) and 118(1).
- The appeal is made by [REDACTED] on behalf of [REDACTED] against a Demand Notice (DN) issued by the Collecting Authority, Kings Lynn and West Norfolk Borough Council (CA).
- The relevant planning permission to which the CIL relates is ref [REDACTED].
- The description of the development is described on the DN as follows: [REDACTED]
- A Liability Notice (LN) was served on 27 October 2021. The total amount of CIL payable is £[REDACTED]
- The DN was issued on 26 March 2024. The following surcharges were imposed: £[REDACTED] for 30-day non-payment of CIL in accordance with Reg 85(1). The total amount payable is £[REDACTED].

Decision

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

Preliminary matters

2. As the outcome of the appeal under CIL 2010 s118 has a bearing on the 117(1)(a) appeal, I shall evaluate the former first.

Reasons for the Recommendation

Section 118

3. The appellant argues that the CA has issued a DN with an incorrectly determined deemed commencement date. However, it appears clear in this case that the appellant themselves provided the commencement date, December 8, 2023, through the submission of a CIL Form 6 Commencement Notice conforming with section 67(2) CIL 2010.
4. Whilst it has been argued that a revised planning document was submitted and the appellant believed the commencement date would be updated, there is no evidence of the original CIL 6 Form being withdrawn, or a subsequent valid CN having been submitted. Under section 67(7) CIL 2010 a person who has submitted a commencement notice may withdraw it at any time before the commencement of the chargeable development to which it relates by giving notice in writing to the collecting authority.
5. On the evidence before me, I am satisfied that works have begun on the chargeable development, [REDACTED] and that the CA have correctly determined the commencement date.

Section 117(a)

6. The appeal is made on the ground that the alleged breaches which led to the surcharge did not occur. Development was deemed to have commenced 8 December 2023. I have concluded above that the commencement date is correct.
7. The breach which led to the surcharge was non-payment of CIL. Section 85(1) CIL 2010 clearly sets out that non-payment of CIL within 30 days of the demand notice allows a surcharge to be imposed of five percent or £■■■■, whichever is the greater.
8. The appellant does not dispute non-payment of CIL. Consequently, I am satisfied that the breach that led to the surcharge did occur and that the appeal on section 117(a) should fail.

Conclusion and Recommendation

9. 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

10. 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