



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/L3245/L/22/3306159

- The appeal is made under the Planning Act 2008 Section 218 and under the Community Infrastructure Levy Regulations 2010 (as amended) ("the CIL 2010") sections 117(1)(a), 117(1)(b) and 118(b).
- The appeal is made by [REDACTED] against a Demand Notice (the 'DN') issued by the Collecting Authority, Shropshire Council (the 'CA').
- 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 November 16, 2015. The total amount of CIL payable is £[REDACTED].
- The DN was issued on 27 July 2022. The following Late Payment Interest charges were imposed: £[REDACTED] for late payment. The total amount payable is [REDACTED].
- The determined deemed commencement date given in the DN is 08 June 2016.

Decision

1. The appeal under section 118 is dismissed.

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.
3. It appears clear that as well as the appeal under section 118 for an incorrectly determined commencement date that the appellant would like to appeal against the late payment interest charges. For the avoidance of doubt, there is no such ground of appeal available, and I can only determine the appeal solely in relation to the determined commencement date. I have set out my reasoning below.

Reasons for the Recommendation

Section 118

4. The appellant argues that the CA has issued a DN with an incorrectly determined deemed commencement date. However, the basis of the appeal appears to be that the chargeable development is not liable for CIL as it is holiday accommodation, rather than the deemed commencement date being incorrect. Nevertheless, it is clear, and not disputed by the appellant, that works to construct 3 No log cabins have taken place on the relevant land. The evidence provided by the Council is that commencement occurred on 08 June 2016 through excavation and piling of foundations as checked by building control. This is not disputed by the appellant.
5. The trigger for the charging of CIL is the carrying out of a material operation on the relevant land in accordance with CIL 2010 Sections 7(2) and 7(6). Material operation has

the same meaning given in the Town and Country Planning Act 1990 (TCPA 1990) s56(4). Clearly, given the description of the planning permission referred to in the DN, the development relates to a material operation.

6. On the evidence before me, I am satisfied that works have begun on the chargeable development [REDACTED]. As such I conclude that the Council have correctly determined the date of commencement of the development granted permission under.

Section 117(1)(a)(b)

7. The appellant has appealed under Section 117(1)(a). These grounds of appeal relate only to the imposition of surcharges by the CA.
8. Part 9, Enforcement, chapter 1 to CIL 2010 explains how and when a surcharge may be imposed. Section 85 CIL 2010 sets out the parameters of a surcharge for Late Payment ("LPS"); however, the CA's statement of case makes it clear that the DN, served on 27 July 2022, adds Late Payment Interest (LPI) only and not a LPS. That being so, the CIL 2010 117(a) and (b) appeal is not the mechanism because a LPI charge is not treated as a surcharge for CIL purposes. The regulations make a distinction between surcharges and LPI.
9. Section 87 CIL 2010 sets out how the LPI operates and Section 88 CIL 2010 clearly sets out that interest payable by a person under this Chapter must be collected by treating it as if it were part of the CIL that person is liable to pay. As such, and for the avoidance of doubt, there is no ground of appeal available against LPI charges and consequently I have no authority to quash them.

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.

S. Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

1. 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