



Appeal Decision

by Ken McEntee

a person appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 12 December 2024

Appeal ref: APP/H1705/L/24/3351025

- The appeal is made under Regulation 118 of the Community Infrastructure Levy Regulations 2010 (as amended).
- The appeal is brought by [REDACTED] against surcharges imposed by Basingstoke & Deane Borough Council.
- The relevant planning permission to which the surcharges relate is [REDACTED].
- The description of the development is: "[REDACTED]".
- Planning permission was granted on 8 December 2023.
- A Liability Notice was served on 12 December 2023.
- A revised Liability Notice was served on 9 January 2024.
- A Demand Notice was served on 16 August 2024.
- A Surcharge Notice was served on 16 August 2024.
- The alleged breaches that led to the surcharges are: the failure to submit a Commencement Notice before starting works on the chargeable development and the failure to pay the CIL within 30 days of the due date.
- The outstanding surcharge for failing to submit a Commencement Notice is £[REDACTED].
- The outstanding surcharge for failing to pay the CIL charge on time is £[REDACTED].
- The determined deemed commencement date given in the Demand Notice is 13 May 2024.

Summary of decision: The appeal is dismissed and the surcharges are upheld.

Reasons for the decision

1. An appeal under Regulation 118 is that the Collecting Authority (Council) has issued a Demand Notice with an incorrectly determined deemed commencement date. It appears clear that the Council decided on the date of 13 May 2024 as that is the date that [REDACTED] has given in the Building Regulation Initial Notice where it states "*the date when it is proposed the work will reach the point it is to be regarded as commenced in in accordance with Regulation 16 of the Building (Registered Building Control Approvers etc.) (England) Regulations 2024...*". The Council also refers an e-mail exchange between the case officer and the appellant's agent, which they claim implied that works had commenced prior to that date.
2. However, I am not convinced that any of the correspondence referred to necessarily supports the Council's case. While [REDACTED] state that it is proposed (my emphasis) the work will reach the point it is to be regarded as commenced etc, there is no evidence that this actually happened. Similarly, I note that in the e-mail of 8 May 2024 from the case officer to the

agent, it is the case officer who implies that works may have commenced by stating "*I understand works have commenced...*" but does not explain why she believes that to be the case, and there is no evidence before me of a response from the agent confirming the case officer's assertion. Therefore, it appears to me that the Council's decision to deem the commencement date to be the 13 May 2024 was not based on the most compelling of evidence.

3. However, I note that the appellant has not provided an alternative date with her appeal submission but contends that works did not commence on 13 May 2024 as she was not permitted to do so due to certain conditions not yet being agreed or approved. She has also submitted an e-mail of 3 July 2024 from Hungerford Design Ltd, which states "*Good news, please see attached approval. This discharges the planning conditions for you to start work*". In an e-mail of 19 August 2024, the appellant contends that works did not commence until 15 July 2024. However, this is contradicted by the appellant's Commencement Notice of 15 August 2024, in which it states a commencement date of 19 August 2024. Incidentally, this notice was invalid as it did not identify the Liability Notice as required by Regulation 67(2)(b). Nevertheless, it has added to the confusion in trying to establish what the correct date of commencement actually was.
4. While I have doubts about the deemed commencement date of 13 May 2024, in view of the conflicting and unsubstantiated evidence before me of an alternative date, I find I cannot conclude that the Council has issued a Demand Notice with an incorrectly determined deemed commencement date. The appeal fails accordingly.

Formal decision

5. For the reasons given above, the appeal is dismissed and the surcharges of £[REDACTED] and £[REDACTED] are upheld.

K McEntee