



Appeal Decision

Site Visit held on 14 February 2025

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

Appeal Ref: APP/E3335/L/24/3350528

- The appeal is made under The Planning Act 2008 Section 218 and Regulations 117(1)(a), 117(1)(c) and 118 of the Community Infrastructure Levy Regulations 2010 (as amended) ("the CIL 2010").
- The appeal is made by [REDACTED] against a Demand Notice ("DN") issued by the Collecting Authority, Somerset Council (CA).
- The relevant planning permission to which the Community Infrastructure Levy ("CIL") relates is [REDACTED].
- The description of the development is described on the DN as "[REDACTED]
[REDACTED]
[REDACTED]"
- A CIL Exemption (Self Build) Notice (EN) was served on 9 September 2021.
- A Liability Notice (LN) was served on 10 September 2021. The total amount of CIL payable is £0.
- A DN was issued on 23 July 2024. A surcharge of £[REDACTED] was imposed for a disqualifying event. The total amount payable is £[REDACTED].
- The intended or deemed commencement date given in the DN is 13 September 2021.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant and CA have provided evidence to demonstrate whether the chargeable development has commenced. However, this is not relevant to a r117(1) appeal. Whether it is relevant to a r118 appeal will depend on the basis for which the DN was served, and I will return to this below.
3. R65(9) of the CIL 2010 states "*A liability notice issued in respect of chargeable development ceases to have effect if liability to CIL would no longer arise in respect of that chargeable development.*" While it is clear from my site visit that the chargeable development the subject of the appellant's LN has not been and can no longer be built out, it is a matter for the CA as to whether the liability to CIL would no longer arise.

Reasons

Regulation 117(a) the claimed breach which led to the surcharge did not occur

4. This type of appeal is against the imposition of the surcharge only and not against the liability to pay CIL. The DN confirms the surcharge has been applied due to a disqualifying event occurring.
5. The appellant complied with the requirements to accept liability for the CIL payment. They were granted a CIL self-build exemption. They also provided a CN.

6. R54D(2) of the CIL 2010 deals with the withdrawal of the exemption for self-build housing. R54D(2)(d) states that the '*sale of the self-build housing*' is a disqualifying event. R54D(4) requires the relevant person to notify the CA in writing of the disqualifying event within 14 days of it occurring.
7. The appellant does not dispute that they sold the 'self-build housing'. The disqualifying event has therefore occurred.
8. Further, the appellant did not provide a 'Withdrawal of Assumption of Liability', a 'Transfer of Assumed Liability' or some other written notification of the disqualifying event to the CA as required by r54D(4). The appellant therefore remains liable for the surcharge.

Regulation 117(c) The surcharge has been calculated incorrectly

9. R84 of the CIL 2010 deals with the surcharge that can be applied where a relevant person has not notified the relevant authority of a disqualifying event before the end of the 14 days notification period. R84(2) states "*The relevant authority may impose a surcharge equal to 20 percent of the chargeable amount payable in respect of the chargeable development to which the disqualifying event relates, or £[REDACTED], whichever is the lower amount.*"
10. Further to planning permission being granted for the development applied for in application reference [REDACTED], the CA issued an LN on 12 February 2019 ("LN1") confirming that the CIL payable amount was £[REDACTED]. The CA issued a second LN on 10 September 2021 ("LN2") confirming that the CIL amount payable was £0 due to the EN. The CA issued a CIL Liability Notice dated 23 July 2024 ("LN3") confirming that the CIL payable amount is £[REDACTED].
11. While it is unclear why LN1 and LN3 cite different CIL payable amounts, 20 percent of either amount is greater than £[REDACTED]. The DN therefore identifies a surcharge of £[REDACTED], in accordance with r84(2). The surcharge has therefore been calculated correctly.

Regulation 118 Deemed Commencement

12. This type of appeal is against the deemed commencement date calculated by the CA. It is not an appeal against whether the chargeable development has been commenced. R69(2)(d) of the CIL 2010 requires a DN to state the '*intended commencement date*' or where the collecting authority has determined a deemed commencement date, the deemed commencement date.
13. The CA confirmed that the DN cites the intended commencement date provided by the appellant in their CN dated 10 September 2021. As the CA has not calculated a '*deemed commencement date*', the appeal under regulation 118 does not fall to be considered.

Conclusion

14. For the reasons given above, I conclude that the disqualifying event did occur, the surcharge has been calculated correctly, and the appeal r117 shall not succeed.

M Madge

INSPECTOR