Appeal Decision

by [redacted]
an Appointed Person under the Community Infrastructure Regulations 2010 as Amended

Valuation Office Agency
[redacted]

e-mail: [redacted]@voa.gsi.gov.uk.

21st June 2013

Appeal Ref: [redacted]

Planning Permission Reference : [redacted]

Site Address : [redacted]

Development : Remodelling and extension to single dwelling with a detached double carport

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Decision

I determine that the Community Infrastructure Levy (CIL) payable in respect of the above development is correctly assessed in the sum of [redacted]

Reasons

1. On [redacted] planning permission was granted for remodelling and extension to a single dwelling with a detached double car port at [redacted]. On the same day the Collecting Authority (CA) issued a CIL Liability Notice. The notice indicated that the CA calculated the CIL liability to be £[redacted] based on new floor space of [redacted] square metres at a rate of £[redacted] per square metre.

2. The appellant requested the CA to review the charge on [redacted] and they responded on [redacted] In their response the CA indicated that there had been an error in their original calculation and that the CIL liability should in fact be £[redacted] based on new floor

space of [redacted] square metres at a rate of £[redacted] per square metre. The CA issued a revised Liability Notice at the amended sum.

3. The appellant has appealed against the CA's decision on the review under Regulation 114, on the ground that the revised chargeable amount has been calculated incorrectly. The appellant believes that the first 100 square metres of any development is not chargeable under the CIL provisions. He considers that where the area of new floor space is over 100 square metres the CIL charge should be based only on the area over 100 square metres as basing the charge on the whole area is unfair. The appellant states that he would be happy to pay a CIL charge based on the development that is in excess of 100 square metres.

4. The exemption for development under 100 square metres to which the appellant is referring is contained in Regulation 42 of the CIL Regulations 2010 (as amended). This states as follows:

> ***Regulation 42 – Exemption for minor development***
>
> *(1) Liability to CIL does not arise in respect of a chargeable development if, on completion of that development, the gross internal area of new build on the relevant land will be less than 100 square metres.*
> *(2) But paragraph (1) does not apply where the chargeable development will comprise one or more dwellings.*
> *(3) In paragraph (1) "new build" means that part of the chargeable development which will comprise new buildings and enlargements to existing buildings.*

5. The CA in their representations contend that the correct interpretation of Regulation 42 is that development comprising less than 100 square metres of new build is exempt from CIL unless it results in the creation of new dwellings. They do not consider that it means that the first 100 square metres of new build, in respect of any development, is exempt from CIL. The CA points out that the title of the regulation is *"Exemption for minor development"* and this reinforces their view that that the purpose of the regulation is to exempt small scale development from CIL, and not to give any development 100 "free" square metres. As the Chargeable Development to which this appeal relates, contains [redacted] square metres of new build GIA floor space, it is in excess of the 100 square metre *"Exemption for minor development"* threshold. Consequently the CA consider the whole of the increase in floor space should be liable for CIL.

6. The CA indicate that the floor areas used in their calculation were provided by the appellant's architect and these do not appear to be in dispute. Based on the rate of £[redacted] per square metre specified in the Charging Schedule the CA have correctly calculated the appropriate charge in accordance with the formula in Regulation 40 of the CIL Regulations 2010 (as amended).

7. I agree with the CA that Regulation 42 only provides exemption for 'new build' if it is less than 100 square metres (and does not comprising one or more dwellings). It does not provide exemption for the first 100 square metres of new build in any development.

8. On the evidence before me I consider that the CIL payable is correctly assessed in the sum of £[redacted]

[redacted]
RICS Registered Valuer
District Valuer
CIL6 – VO 4003