

Appeal Decision

by [REDACTED]

an Appointed Person under the Community Infrastructure Regulations 2010 (as Amended)

[REDACTED]

Email: [REDACTED]@voa.gsi.gov.uk

Appeal Ref: - [REDACTED]

Address: [REDACTED]

Development: To form additional [REDACTED] in existing roof space

Planning permission details: Planning permission [REDACTED] granted by [REDACTED]
[REDACTED]

Decision

I determine that the Community Infrastructure Levy (CIL) payable in respect of the development is to be assessed in the sum of £[REDACTED]

Reasons

1. I have considered all the submissions made by the appellant, [REDACTED], and by the Collecting Authority (CA), [REDACTED]. In particular, I have considered the information and opinions presented in the following documents:-

- (a) Planning permission decision letter dated [REDACTED]
- (b) Planning permission decision letter dated [REDACTED]
- (c) Appeal decision by the VOA dated [REDACTED]
- (d) The CA's Liability Notice dated [REDACTED]
- (e) The CA's Revised Liability Notice on review of CIL chargeable amount dated [REDACTED] with covering letter detailing reason for revision
- (f) CIL Appeal form dated [REDACTED]
- (g) Approved plans with measurements from CA's planning website in relation to both permissions, both referenced [REDACTED]

2. A previous planning permission [REDACTED] ('the first permission') was granted by [REDACTED] on [REDACTED] for the formation of a [REDACTED] flat in the existing roof space and addition of a car parking space. A CIL Liability Appeal Decision was issued on [REDACTED] by the [REDACTED] in the sum of £[REDACTED] in relation to this permission. It is my understanding that this CIL payment has been received by the CA but the development has not been completed.

3. On [REDACTED] a further planning permission ([REDACTED] ('the subject permission') was approved by [REDACTED] for the proposed development, namely an additional [REDACTED] flat in the existing roof space. The CIL Liability in respect of this permission is the subject of this appeal. Approved plans show that both permissions relate to an area within the roof space and the new [REDACTED] flat occupies space that was originally part of the previously approved (in the first permission) [REDACTED] flat but the layout and extent of the entire second floor is altered by the subject permission.

4. On [REDACTED] the CA issued a Regulation 65 Liability Notice in the sum of £[REDACTED] based on net additional floor space of [REDACTED] square metres (sqm).

5. The appellant requested a Review of the calculation of the chargeable amount under Regulation 113.

6. The CA issued a revised Regulation 65 Liability Notice on [REDACTED] in the sum of £[REDACTED] based on a net additional floor space of [REDACTED] square metres (sqm).

7. On [REDACTED] the Valuation Office received a CIL appeal made by the Appellant under Regulation 114 (chargeable amount) contending that the chargeable amount should be £[REDACTED].

8. The Appellant believes that £[REDACTED], which is the CIL amount as determined by Appeal under the previous permission [REDACTED] should remain as the correct CIL for the subject permission since he contends that the additional [REDACTED] flat is within the same roof space. The appellant notes that the chargeable area used to calculate the previous CIL liability was [REDACTED] sqm.

9. The CA submitted representations on [REDACTED] which can be summarised as follows:-

- (a) Copy of letter to appellant dated [REDACTED] which details the calculation of the revised CIL liability based on the following:

GIA of [REDACTED] + All In Tender Price Index =
£[REDACTED].

The CA also explains that the reduction in the GIA recorded on the revised Liability Notice is due to the flats and the common areas being measured separately, thus excluding the internal walls separating the flats from the common area.

- (b) Copy of e-mail to appellant dated [REDACTED] explaining that the calculation of the GIA at [REDACTED] sqm is in accordance with the RICS Code of Measuring Practice 6th Edition and that floor area under 1.5 m is included along with the common area between the two flats. Further explanation is provided in a comparison between the two schemes and confirmation that scaled measurements for the subject development indicate that it extends further into the eaves.

10. The appellant submitted further comments by e-mail dated [REDACTED] re-emphasising his view that the floor area of the later application has not changed from the first approval

and that he measures the floor area of the two flats (not including the staircase) to be ■■■ sqm. He further contends that when calculating usable floor area in development within roof space, areas below 1.2 – 1.5 metres in height is excluded, thus the usable floor space for both flats is approx. ■■■ sqm, the same as the figure used in the Appeal in relation to the first permission.

11. It would seem from the representations received that the issue in dispute is whether the floor area to be adopted in the calculation of the CIL charge should be ■■■ sqm (which excludes some floor space that the appellant does not consider to be 'usable') or ■■■■ sqm (revised to ■■■■ sqm) which the CA consider represents the 'GIA' of the floor space. The Appellant would seem to accept that the appropriate rate is £■■■ per sqm and has made no representations regarding the CA's calculation of the indexation increase, which is required when calculating the appropriate charge in accordance with Regulation 40 of the CIL Regulations 2010 (as amended).

12. Despite the planning permission only referring to an additional ■■■■ apartment, both parties appear to accept that the chargeable development relating to this permission is the entirety of the second floor. I am in agreement with this approach since the development of the original ■■■■ flat has not been completed and the plans clearly show that the layout of the flat granted consent under the first permission has been altered and extended into the roof space.

13. Since the chargeable development includes an area included within a prior planning permission for which a CIL payment has already been paid, the appellant may be entitled to make a request under Regulation 74B 'Abatement: implementation of a different planning permission'. In certain circumstances, this allows for a previous CIL payment to be credited against a CIL charge applicable to a subsequent permission.

14. The CIL Regulations do not define Gross Internal Area so it is necessary to adopt a definition. The definition of Gross Internal Area provided in the RICS Code of Measuring Practice (6th Edition) is the generally accepted method of calculation and I have applied this definition in considering the extent of the floor space in this case.

GIA is the area of a building measured to the internal face of the perimeter walls at each floor.

Including:-

- **Areas occupied by internal walls and partitions**
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies walkways and the like
- Structural, raked or stepped floors are to be treated as level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floors areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms and the like
- Projection rooms
- **Voids over stairwells and lift shafts on upper floors**

- Loading bays
- **Areas with a headroom of less than 1.5m**
- Pavement vaults
- Garages
- Conservatories

Excluding:-

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fires
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stored, and the like in residential property.

15. I have scaled check measurements from the plans and I am satisfied that the CA's areas are scaled correctly. I am of the opinion that the GIA of the chargeable development in accordance with the RICS Code of Measuring Practice is [REDACTED] sqm as proposed by the CA in the original Liability Notice. This is the GIA of the entire second floor and includes internal walls and partitions, the stair case and areas with a headroom less than 1.5m. However, the CA had subsequently proposed a revised area of [REDACTED] sqm to exclude the internal walls separating the flats from the common area.

16. The responsibility of the Appointed Person is to determine the correct chargeable amount. In this case the correct chargeable amount is based on the correct GIA of the chargeable development which is [REDACTED] sqm at (£[REDACTED]/sqm + All In Tender price Index) being £[REDACTED].

17. On the evidence before me I therefore confirm the Community Infrastructure Levy (CIL) payable in respect of the development is £[REDACTED].

[REDACTED]
RICS Registered Valuer
Valuation Office Agency
[REDACTED]