

Appeal Decision

by [REDACTED]

an Appointed Person under the Community Infrastructure Regulations 2010 as Amended

[REDACTED]

e-mail [REDACTED]voa.gsi.gov.uk

Appeal Ref: [REDACTED]

[REDACTED]

Development: Erection of single storey extension and first floor rear extension, elevational alterations including insertion of rooflights: erection of detached part open fronted double garage with roof mounted solar panels.

Decision

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

Reasons

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

- (a) Planning Permission Decision Notice dated [REDACTED]
- (b) [REDACTED] CIL Liability Notice dated [REDACTED]
- (c) 'Form 0: Determination of CIL Liability' dated [REDACTED] submitted by [REDACTED]
- (d) Correspondence of [REDACTED] to [REDACTED]
- (e) E-mail dated [REDACTED] from [REDACTED] to [REDACTED] requesting Review of CIL Liability.

- (f) Decision of Regulation 113 Review undertaken by [REDACTED] dated [REDACTED].
- (g) Completed CIL Appeal Form dated [REDACTED]
- (h) RICS Code of Measuring Practice (6th Edition).
- (i) Site Plans and layout drawings (not to scale).

2. The appellant made an application to [REDACTED] on [REDACTED] for 'erection of single storey extension and first floor rear extension, elevational alterations including insertion of rooflights: erection of detached part open fronted double garage with roof mounted solar panels'.

3. Planning permission for the proposed development was granted on [REDACTED]

4. [REDACTED] issued a CIL Liability Notice on [REDACTED] in the sum of £[REDACTED] based on net additional floor space of [REDACTED] m² at £80.00 per m².

5. The Valuation Office Agency (VOA) received a CIL Appeal dated [REDACTED] made by the appellant under Regulation 114 (chargeable amount), contending that the CIL charge should be £0 as (in summary) the net additional floor area is less than 100m² on the following grounds:-

- a) *Regulation 40 of the CIL Regs clearly expresses the method of calculation of GIA.*
- b) *A copy of the RICS Code of Measuring Practice is enclosed.*
- c) *Within the RICS Measuring Code there are a number of exclusions under GIA. These are, amongst others: -*
 - *Open sided covered ways.*
 - *Garden stores, fuel stores and the like in general.*
- d) *The method of measurement of GIA requires a surveyor to measure to the 'internal face of the external wall'. If there is no external wall because it is open sided then the surveyor cannot complete the measurement. The very reason such things as canopies are excluded.*
- e) *The first floor above the garage is largely below 1.5m which under the VOA guidelines is also excluded.*

6. The Collecting Authority in their correspondence to the appellant of [REDACTED] and their decision following review of CIL dated [REDACTED] state that the net additional area is [REDACTED] m² and as such, being in excess of 100m² the development is liable to CIL.

7. The Collecting Authority state that '*whilst the RICS Code of Measuring Practice sets out the method for calculating Gross Internal Area it does not provide guidance on what is and is not considered chargeable floor space for the purposes of CIL*'.

8. The Collecting Authority further state that '*Regulations define 'chargeable development' as the "development for which planning permission is granted"*'.

9. The parties do not agree upon the extent of the net additional area. The Collecting Authority state it to be [REDACTED] m², the appellant [REDACTED] m²

10. Whilst no agreed areas are available it would appear to be common ground that the 'status' of the proposed garage accommodation is the key to determining whether or not there is a liability to CIL. The decision of the Collecting Authority in reviewing the liability to CIL notes their opinion that the measurements of the '*garage/ancillary residential floor space*' is [REDACTED] m² on the *ground floor*.

11. The appellant contends that part of this garaging accommodation, being open sided, does not form additional floor area as it does not fall to be included within Gross Internal Area (GIA) as defined in the RICS Code of Measuring Practice.

12. As stated by the Collecting Authority, GIA is not defined in the Community Infrastructure Levy Regulations 2010.

13. The generally accepted method of calculation of GIA is set out in the RICS Code of Measuring Practice (6th Edition).

GIA is defined as 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 stores and the like in residential property.

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

15. Whilst the exact measurements of the garage accommodation have not been agreed it is, as stated above, apparently common ground that the treatment of the garage accommodation is key to this matter.

16. With reference to the plan entitled 'Proposed Garage Details' (ref. [REDACTED]) I note that the garage/carport would appear to comprise of a pair of 'garages' one of which appears to be fully enclosed to four sides and the second described as 'car port' which would appear to in the 'nature' of a garage, fully enclosed on three sides but with no door. It would in effect appear to be a garage, analogous with the neighbouring garage structure, albeit with the

door missing. I note also that the opening to the 'car port' is bounded to either side by a small area of structural wall capable of providing a surface to which GIA can be assessed. I note also that the planning permission describes the structure as '*part open fronted double garage*'.

18. Accordingly I am of the opinion that on the facts of this case the car port accommodation may be described as falling within the GIA as defined in the RICS Code of Measuring Practice.

19. Whilst, as stated, the parties appear to agree that the treatment of the garage/car port accommodation is key to this decision I note that the appellant referred also to the presence of accommodation over the garages with a head height of less than 1.5 metres. It is stated that such an area should not be included within the GIA. I note that the RICS Code of Measuring Practice (6th Edition) does not exclude such accommodation from an assessment of GIA. The VOA guidelines to which the appellant refers is I believe 'The Valuation Office Code of Measuring Practice **for Rating Purposes** in England and Wales' (*my emphasis*).

20. Accordingly, and on the balance of probabilities, I conclude that the net additional floor space provided by the above development is in excess of 100m² and is correctly stated as [REDACTED] m². Consequently, as the net additional floor space exceeds 100m² the development is liable to CIL. In conclusion therefore, based on the evidence before me, I determine that the liability to CIL in the sum of £ [REDACTED] is correct.

[REDACTED]

[REDACTED]

RICS Registered Valuer
Valuation Office Agency