Appeal Decision

by [redacted] BSc(Hons) MRICS

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

Valuation Office Agency

[redacted]

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

Appeal Ref: [redacted]

Planning Permission Ref. [redacted] ***granted by*** [redacted]

Location: [redacted]

Development: 1 no. two bedroom single storey [redacted]

Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £[redacted] ([redacted]).

Reasons

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

a. The application for planning permission dated [redacted] together with associated plans and drawings.
b. The Decision Notice issued by [redacted] on [redacted].
c. The CIL Liability Notice issued by the CA on [redacted].
d. The appellant's request for a review under Regulation 113 dated [redacted].
e. The letter from the CA dated [redacted] in response to the appellant's request for a review.

f. The CIL Appeal form dated [redacted] submitted by the appellant under Regulation 114, together with supporting documentation received by the VOA on [redacted].
g. The CA's representations to the Regulation 114 Appeal.
h. The appellant's further comments on the CA's representations dated [redacted].

2. The CA are of the view that the proposed development, a two bedroom self catering holiday unit, is residential development under the adopted Charging Schedule and have issued a liability notice for CIL in the sum of £[redacted] based on a charge of £[redacted] per sq m (indexed) as applicable for the area within their jurisdiction located to the [redacted].

3. The appellant contends that the development is not liable to CIL since holiday accommodation should not be considered as residential, nor is it within any other separately defined category set out in the CA's Charging Schedule and so the Standard Charge of £[redacted] should apply.

4. The appellant considers that the proposed development either falls into Use Class C1 (hotel, guesthouse or hostel) or should be classed as Sui Generis under the Town and Country Planning (Use Classes) Order 1987 (as amended) and it should not therefore be classified as having a 'residential' use under the Charging Schedule.

5. In support of this contention the appellant has provided a redacted copy of a CIL Appeal Decision relating to holiday accommodation where no CIL was payable since, based on the facts of that particular case, the use of the building was held to fall outside of Use Class C3.

6. In its submission the CA states that the adopted Charging Schedule refers to 'Development Types' which includes '*Residential (the creation of one or more dwellings)'. The CA contends that the proposed development is a dwelling, albeit restricted to holiday use, and is not a hostel, hotel or guesthouse. In support of this view, the CA has stated that 'a dwelling can reasonably be described as a building where no more than 6 people live together as a single household that provides all the facilities required for day-to-day private domestic existence (cooking, eating and sleeping). It further describes a hostel as 'a large house providing budget-oriented, shared room ('dormitory') accommodation that accepts individual travellers (typically backpackers) or groups for overnight or short term stays, and that also provides common areas and communal facilities. It considers that there is a clear difference between the permitted use and a hostel.

7. In support of its contention the CA has also made reference to a CIL appeal decision in relation to a similar issue whereby the development was found to be CIL liable. I consider that both this and the CIL decision referred to by the appellant to be of limited relevance since they both relate to other Charging Authorities with different Charging Schedules and classifications contained therein, albeit the appeal decision submitted by the CA does consider a more similar issue.

8. In deciding this appeal I have considered the precise wording of the [redacted] Charging Schedule as it is the interpretation of this that is giving rise to the differing conclusions of each party. The Charging Schedule specifies the rates at which CIL is charged depending upon the 'Use of Development' to be as follows:

*Residential – [redacted] - £[redacted] per sq m
*Residential - [redacted] - £[redacted] per sq m
Retail (wholly or mainly convenience) - £[redacted] per sq m
Retail (wholly or mainly comparison) - £[redacted] per sq m
Purpose Built Student Housing - £[redacted] per sq m
Standard Charge (applies to all development not separately defined) - £[redacted]

*This charge applies to the creation of one or more dwellings, and residential extensions or annexes which are 100 square metres or more gross internal area which are not for the benefit of the owner/occupier. This charge does not apply to residential institutions (C2).

9. The Charging Schedule rates of £[redacted] and £[redacted] per sq m for residential use therefore apply to any development that can reasonably be described as comprising 'one or more dwellings'.

10. A 'dwelling' is not defined in the Charging Schedule but I consider that it can reasonably be described as a building that provides the facilities required for day-to-day private domestic existence. There is nothing in the Charging Schedule to suggest that there is any requirement that before a building can be described as a dwelling, it must be occupied as a permanent home or fall under a particular Use Class under the Town and Country (Use Classes) Order 1987, other than Use Class C2 which is specifically excluded. The proposed development in my view clearly comprises a new dwelling and there is nothing in the Charging Schedule to exclude a dwelling that is to be used as a holiday let.

11. Notwithstanding that it is the appellant's intention for the property to be used as holiday accommodation and irrespective of which Use Class this may fall under, I consider that the development can be reasonably described as comprising 'one or more dwellings' and hence have a 'residential' use as specified within the adopted Charging Schedule. It therefore follows that a CIL charge based on the residential rate for the [redacted] of the [redacted] of £[redacted] per sq m (with indexation) is applicable.

12. The area of the chargeable development has been calculated by the CA as being [redacted] sq m. The calculation of the area would appear to be accepted by the appellant.

13. On the basis of the evidence before me and having considered all of the information submitted in respect of this matter, I therefore confirm a CIL charge of £[redacted] as stated in the liability notice.

[redacted] BSc(Hons) MRICS
RICS Registered Valuer
District Valuer
[redacted]