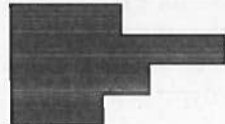


Appeal Decision

by [REDACTED] MRICS

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

Valuation Office Agency



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

Appeal Ref: [REDACTED]

Planning Permission Reference: [REDACTED]

Location: [REDACTED]

Development: [REDACTED] new semi-detached dwellings following the demolition of the existing dwelling.

Decision

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

An award to the Appellant for costs incurred will not be made.

Reasons

1. I have considered all the submissions made by [REDACTED] (the appellant) and [REDACTED], the Collecting Authority (CA), in respect of this matter. In particular, I have considered the information and opinions presented in the following documents:-
 - a. The Grant of Planning Permission [REDACTED] issued by [REDACTED] dated [REDACTED].
 - b. The CIL Liability Notice [REDACTED] issued by the CA on [REDACTED] at £ [REDACTED] CIL charge.
 - c. The grant of Self Build exemption under Regulations 54A and 54B issued by the CA on [REDACTED] on one of the proposed semi-detached houses forming the proposed development.
 - d. The CIL Liability Notice [REDACTED] issued by the CA on [REDACTED] at £ [REDACTED] CIL charge.
 - e. The CIL Appeal Form dated [REDACTED] submitted by the appellant under Regulation 114, together with documents and correspondence attached thereto.

- f. The CA's representations to the Regulation 114 Appeal and to the Application for Award of Costs, both dated [REDACTED].
- g. Further comments on the CA's representations prepared by the appellant and dated [REDACTED].

2. Planning permission for the development was granted by [REDACTED] on [REDACTED], reference [REDACTED].
3. A CIL Liability Notice was issued by the CA on [REDACTED] for the amount £ [REDACTED] ([REDACTED] and [REDACTED]) based on the CA's assessment of GIA for the proposed development of one semi-detached house at [REDACTED] m², with no deduction in GIA for an existing building.
4. The CA also granted Self Build exemption under Regulations 54A and 54B in a letter dated [REDACTED] for only one of the two proposed semi-detached properties.
5. The appellant requested a Regulation 113 Review of the Chargeable Amount.
6. The CA issued its decision to amend the Chargeable Amount in a further CIL Liability Notice issued on [REDACTED] for the amount £ [REDACTED] ([REDACTED] and [REDACTED]).
7. The CA calculated the CIL charge as follows:-

GIA of the proposed development [REDACTED] square metres (m²)
Less GIA of existing development [REDACTED] m²
= chargeable development of [REDACTED] m²

This applies to two semi-detached houses, one of which carries self build relief, thus half only to apply in CIL calculation, thus actual chargeable development is [REDACTED] m²
x £ [REDACTED] /m² x [REDACTED] (index multiplier)
= £ [REDACTED] CIL Charge
8. On [REDACTED] the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL charge should be £NIL.
9. On [REDACTED] the Valuation Office Agency received an Application for Award of Costs prepared by the appellant.
10. With regard to the main grounds of appeal relating to the level of CIL charge proposed by the appellant, there are three issues:-
 - i. The GIA of the proposed development.
 - ii. The GIA of the existing building.
 - iii. The calculation of the CIL charge on the chargeable part of the development.
11. With regard to i. the GIA of the proposed development, the CA have treated the pair of semi-detached dwellings as being one building, and have measured through the party wall, arriving at a total GIA of [REDACTED]. The appellant is of the opinion that GIA should, in accordance with RICS Code of Measuring Practice 6th Edition, be measured to the internal face of the perimeter of each dwelling and the total added together with a resultant total GIA of [REDACTED] m².
12. With regard to ii. the GIA of the existing building, the CA's initial calculation of the existing building GIA at [REDACTED] m² does not include the two permanent outbuildings of [REDACTED] m² each, but does specifically include the garage as per the CA's breakdown of their GIA

calculation. They also state that they have excluded some of the loft space on the second floor. The appellant confirms that this area of loft is all walk in storage of ■■■m head height accessed via doors from the other rooms, and that if the missing areas are included in GIA the total would be ■■■m².

13. With regard to iii. the calculation of the CIL charge on the chargeable part of the development, having established the GIA of the chargeable development in accordance with Regulation 40 as being the GIA of the whole development at ■■■m², the CA have then deducted the GIA of the existing building at ■■■m², then apportioned this remainder of ■■■m² equally across the two individual parts (i.e. ■■■m² each) of the proposed building for the purpose of calculating the CIL charge on one portion and applying Self Build Relief on the other. The appellant's approach consists of only calculating CIL on the basis of part of the development (i.e. one semi-detached house): deducting the existing building GIA from the proposed GIA of only one part of the overall chargeable development.
14. Considering i. The GIA of the proposed development, The RICS Code of Measuring Practice 6th Edition, section 2.1, states that areas occupied by internal walls and partitions should be included in GIA. Furthermore, *GIA Note 2 - Separate buildings* - further states that "GIA excludes the thickness of perimeter walls, but includes the thickness of all internal walls. Therefore it is necessary to identify what constitutes a separate building".
15. The RICS Code of Measuring Practice sets out the method of calculating GIA but it does not give guidance on what has to be measured for CIL purposes. As Regulation 40 refers to the GIA of "the chargeable development" this would in my opinion seem to point to calculating the GIA of the whole development, treating the two semi-detached dwellings as one building, and thus treating the party wall as an internal partition to be measured through for the purposes of calculating GIA.
16. The GIA of the proposed development should thus be ■■■m² as per the CA's calculation based on the floor plans.
17. Considering ii. The GIA of the existing building, the two permanent outbuildings of ■■■m² GIA each have been excluded from the total GIA, and also three areas of walk-in storage space in the 2nd floor totalling ■■■m² net internal floor area taken directly from floor areas marked on the architect's plans submitted by the appellant were excluded from the total GIA. The CA confirm this latter floor space was excluded as they did not realise it was walk-in space of ■■■m head height accessed via doors in the other 2nd floor room space.
18. The Appellant calculates the GIA of the existing buildings total at ■■■m². If the CA's calculation of GIA at ■■■m² is deducted from this figure, the difference between the two GIA calculations is ■■■m².
19. Regarding the two outbuildings totalling ■■■m² area, these are described by the Appellant as wooden garden structures. The RICS Code of Measuring Practice (6th Edition) s2.22 on GIA states that "garden stores...and the like" should be excluded from GIA measurements, whereas they would be included in GIA if they were garages, which they are not. The Code also confirms at s2.2 that the internally projecting area of "chimney breasts" should be included in the GIA measurement.
20. The known net internal floor area of the 2nd floor storage totals ■■■m² from individual "room" areas marked on the plans. Therefore if this figure is deducted from the total outstanding difference between the two GIA calculations (■■■m² less ■■■m²) the remaining difference is ■■■m².

21. This [redacted]m2 remaining difference between the parties' calculations of GIA would be further reduced when the partition walls are added back into these loft space measurements, perhaps reducing the difference down to approximately [redacted]m2.
22. This [redacted]m2 difference between the parties' GIA calculations matches the total GIA for the two [redacted]m2 outbuildings that the RICS Code of Measuring Practice (6th Edition) specifically states should be excluded from GIA, and if this is deducted from the Appellant's proposed existing building GIA of [redacted]m2 the total GIA for the existing building would be [redacted]m2.
23. The Appellant's proposed existing building GIA of [redacted]m2 is therefore too high based on the above, and the CA's proposed GIA of [redacted]m2 is too low. The correct figure, based on the floor plans and other information provided and applied in accordance with the RICS Code of Measuring Practice (6th Edition) is therefore [redacted]m2.
24. Considering iii. I favour the approach adopted by the CA. The chargeable development defined in Regulation 9 of the CIL Regulations 2010 is the development for which planning permission has been granted and this includes both dwellings. In calculating the total chargeable amount the demolished floors pace is deducted from the total floor area of the chargeable development, not from any particular part of the development in that calculation.
25. Utilising the GIAs of the proposed development and the existing building as determined above, the CIL charge will be calculated as follows:-

GIA of the proposed development [redacted]m2
 Less GIA of existing development [redacted]m2
 = [redacted]m2

This applies to two semi-detached houses, one of which carries self build relief, thus half only to apply in CIL calculation, thus actual chargeable development is [redacted]m2

Therefore
 x £ [redacted]/m2 x [redacted] (index multiplier)
 = £ [redacted] CIL Charge

26. With regard to the Application for Award of Costs, the main issue would appear to be whether the CA already had sufficient information to calculate the GIA of the existing building, but were unable to competently measure GIA. From the comments made by the CA along with copies of correspondence from the CA to the Appellant, the CA were not initially provided with clear plans, so they used what information they had to calculate GIA, and requested permission to utilise earlier plans submitted under Planning Application [redacted] by the Appellant. It would appear the CA did not therefore act unreasonably, and under these circumstances an award for costs will not be made.
27. On the basis of the evidence before me and having considered all the information submitted in respect of this matter, I therefore determine a CIL charge of £ [redacted] ([redacted] and [redacted]) and no award for costs will be made.

[redacted] MRICS
 RICS Registered Valuer
 Valuation Office Agency
 [redacted]