

Appeal Decision

by [REDACTED]

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

Valuation Office Agency (SVT)



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

Appeal Ref: [REDACTED]

Address: [REDACTED]

Proposed Development: Conversion of existing house into 4 no. flats and re-building of existing barn in the back garden to create 3 no. flats.

Planning Permission details: Granted by [REDACTED] on [REDACTED] under reference: [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 the appellant's Agent ([REDACTED]) acting on behalf of the appellant, [REDACTED], and the submissions made by the Collecting Authority (CA), [REDACTED].
2. Planning permission was granted for the proposed development on [REDACTED].
3. The CA issued a CIL Liability Notice dated [REDACTED] in the sum of £ [REDACTED]. This was based on a net chargeable area of [REDACTED] m² @ £ [REDACTED] per m².
4. The appellant requested a review of this charge under regulation 113 of the CIL Regulations 2010 (as amended) on [REDACTED] and the CA issued their response dated [REDACTED] confirming the amount as set out in the original notice.

5. On [REDACTED], the Valuation Office Agency received a CIL Appeal made under regulation 114 (chargeable amount) contending that the chargeable amount had been incorrectly calculated as a consequence of the miscalculation of the chargeable area. The appellant contends that the CIL payable should be £[REDACTED]6 based on a net chargeable area of [REDACTED] m². The appeal form was accompanied by a grounds of appeal cover letter, a comparable Appeal Decision (a publicly available heavily redacted version) and a calculation of the appellant's £[REDACTED] opinion of the CIL.
6. The CA submitted representations dated [REDACTED], comprising of two documents.
7. The appellant submitted comments on the CA's representations on [REDACTED].
8. The parties have identified that the sole area of disagreement is in relation to the calculation of the GIA of the chargeable area; specifically the treatment of the existing loft space to the house at second floor level. Plans show a loft space at a second floor level to the house. The appellant accepts that the appropriate rate is £[REDACTED] per m² 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). There is no disagreement between the parties in respect of the proposed development area of [REDACTED] m². As part of his representations, the appellant cited a previous CIL Appeal Decision which references the inclusion of eaves storage space within GIA. Of note, this previous CIL Decision is a publicly available redacted version, which does not show the full facts of that particular case.
9. The CA's calculation is based upon a proposed scheme Gross Internal Area of [REDACTED] m², less an amount of [REDACTED] m² for the main house (which excludes the loft space of [REDACTED] m²).
10. The appellant's calculation is based on a net chargeable area of [REDACTED] m² based on a Gross Internal Area (GIA) on a floor by floor basis as follows:-

Proposed Development Area - [REDACTED] m²

less

Existing Area

Main House Ground Floor	-	[REDACTED] m ²
Main House First Floor	-	[REDACTED] m ²
Main House Second Floor	-	[REDACTED] m ²
		[REDACTED] m ²

11. The CIL Regulations do not define GIA, so it is necessary to adopt a definition. The definition of GIA provided in the RICS Code of Measuring Practice (6th Edition) is the generally accepted method of calculation. Both parties have had regard to this definition in considering the extent of the floor space in this case.

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

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.

12. Based upon this definition, the CA considers that the void loft space should be excluded in the existing GIA; whereas the appellant considers that the void area (having a boarded floor, electric lighting, a large window in the gable wall, which offers natural daylight and ventilation) should be included within the existing GIA. Whilst the appellant has offered a GIA of ■ m² for the disputed second floor (of the main house), in his representations he cited that this is a conservative GIA, as it excludes lower eaves loft space. The CA is of opinion that the loft void, irrespective of size, should not be included within the GIA assessment of the building.

13. Having fully reviewed all the documentation and having regard to the RICS guidance, I do not consider that the void in the roof space should be included as part of the existing GIA for the purposes of the calculation of the chargeable area.

14. In my view, the loft space which is accessed via a loft ladder only, should not be included within the GIA of the existing building, in accordance with the definition of GIA 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 level. Accordingly, I must consider if the loft space can be regarded as a 'floor level'. The presence of a permanent staircase is a general acceptance for access to different floor levels. I am of opinion that the loft ladder is not a permanent staircase.

15. In respect of the appellants' cited comparable CIL Appeal Decision, I have attached little weight to this evidence. Each CIL Appeal is individual and is assessed on its

own merits. Having read the unredacted version of the cited Appeal Decision, I am satisfied that the circumstances are different and a comparison is inappropriate.

16. In conclusion, on the basis of the evidence before me and having considered the information submitted to me in this case, I am of the opinion that the appellant's calculation of the GIA does not accord with the RICS Code of Measuring Practice definition and I hereby dismiss their appeal. However, I am of opinion that the CA has erroneously undertaken a very minor mathematical rounding error, in calculating the CIL amount. The CIL amount should be an exact charge amount to the nearest penny, without any mathematical rounding. Given this, I have determined the CIL sum on an exact amount basis, based upon the All in Tender Price Index, available from BCIS online. It is well known that the Index for a particular date does change, as more information becomes available after the date. However, in interrogating BCIS online, with figures published as at [REDACTED], I have ascertained that the Index for Quarter [REDACTED] would appear to have been [REDACTED] and the Index as at Quarter [REDACTED] (the effective date for the Charging Schedule) would appear to have been [REDACTED].

17. On the evidence put forward and based on the following calculation:

$$[REDACTED] \text{ m}^2 \times \text{£} [REDACTED] \text{ per m}^2 \times [REDACTED] = \text{£} [REDACTED]$$

I consider that the CIL payable in this case should be £ [REDACTED].

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