Appeal Decision

by [redacted] MRICS

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

Valuation Office Agency (SVT)
[redacted]

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

Appeal Ref: [redacted]

Planning Permission Ref. [redacted]

Location: [redacted]

Development: Removal of Existing Mobile Home And Erection Of A Single Bungalow

---

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 appellants ([redacted]) and [redacted] the Charging Authority (CA), in respect of this matter. In particular I have considered the information and opinions presented in the following documents:-

a. Planning Decision dated [redacted]
b. CIL Liability Notice dated [redacted]
c. Review Decision from CA dated [redacted]
[redacted] CIL Appeal Form dated [redacted]
e. Grounds of Appeal from Appellants (undated) including photographs of the mobile home to be removed.
f. CA representations dated [redacted]
g. Parties response to CA representations, dated [redacted]
h. Redacted CIL Appeal Decision as published on the Gov.uk website

2. Planning permission for the above development was granted by [redacted] on [redacted] ([redacted]). The [redacted] implemented its CIL Charging Schedule for this location on [redacted]

3. Following the grant of planning permission the CA issued a CIL Liability Notice on [redacted] in the sum of £[redacted]. This is based on a net chargeable area of [redacted] square meters @ £[redacted] per square metre.

4. I do not hold a copy of the Appellants request for review of the Liability Notice, just the CA response to that request for a review of the Liability Notice

5. On [redacted] the CA completed a review of the CIL Charge and did not revise its calculation. The CA stated in that decision in respect of the Review of the Liability Notice that they did not dispute that the mobile home existing on the subject site at the date of the planning decision was in use as a separate residential dwelling. The CA further state that they are of the view that under CIL Regulation 40 the mobile home cannot be used to net off the chargeable floor space as the residence must be a building to qualify for 'offset' and that the mobile home falls under the definition of caravan under the Caravan Site Act 1968.

The CA also referred to a previous CIL Decision (as redacted for publication) whereby the Appointed Person for the purposes of the appeal decided that a mobile home was not considered a building

6. The Valuation Office Agency received a CIL appeal dated [redacted], made under Regulation 114 (chargeable amount) contending that CIL should not have been charged. The appeal form indicated that the Appellant's agent wished to appeal under Regulation 114 (Chargeable Amount Appeal)

7. The appellant's grounds of appeal for a nil CIL charge are:-

i. [redacted] (the subject property) is a dwelling house and used as such for 20 years, evidenced by grant of application [redacted] (Certificate of Lawful Development)
ii. It is therefore a 'building'
iii. It is designed for people to live in.
iv. It is a 'building that provides facilities for day to day private domestic existence regardless of whether it is occupied as such permanently or for only a limited time'
v. If the mobile home ([redacted]) is not a building, then it does not need to be removed as it is not 'another building in the countryside', as deemed by the SDNPA decision for its removal to facilitate the new [redacted].

8. The Council implemented its CIL Charging Schedule in [redacted] and all planning permissions granted on or after that date are potentially liable to a CIL charge.

9. The CA made their submission in response to the grounds of appeal; the main points are detailed below:-

- The mobile home situated on the site is not a 'building' for the purposes of CIL Regulation 40 and therefore that area cannot be offset against the chargeable amount
- The CIL regime and planning law are unclear and definitions within planning law are not intended to apply to the CIL regime
- The CA, have referenced a recent CIL Appeal Decision (and included a redacted copy of the valuation ref: [redacted]) the decision being that a caravan did not constitute a building for CIL Purposes.
- The primary factors in considering whether a building exists are: size, permanence and physical attachment and references case law *(Cardiff Rating Authority v Guest Keen Baldwins Iron and Steel Co Ltd [1949] I KB 385 endorsed by C of A in Skerritts of Nottingham Ltd v SSETR (no2) [2000] 2 PLR 102)*

- That in this case the mobile home lacks physical attachment to land and can be readily removed from the site.

10. The Appellant responded to the CA submission with the following points:-

- The appellant states that the caravan within the referenced appeal decision (ref: [redacted]) was a touring caravan unlike the subject property, a [redacted] residential home.
- That [redacted] is attached to the ground via a set of wooden steps, photographic evidence supplied. It is also attached via a sewage system and hot water pipes from a plant room some [redacted] m from the home. Said plant room also acting as a utility room for the mobile home and this is attached to the land requiring demolition.
- Commercial rates have been paid on the mobile home as part of the appellant's holiday let business.
- OED definition of a residence is ' a house where people live' and therefore [redacted] is a residence
- Case law is referenced in support, firstly Skerritts case as detailed above, whereby a marquee was deemed to be a permanent structure and separately Save Wooley Valley Action Group Ltd v NE Somerset Council (2012) where chicken sheds were recognised as buildings.

11. I do not believe there is any dispute between the Appellants and the CA as to the status of the mobile home on site ([redacted]). From the submissions made it is clear that both accept the property is a residence. Grounds of Appeal i & iii relate to this.

12. Ground ii, iv & v) of the appeal are the crux of the matter. Is the mobile home on the site a building for the purposes of CIL Regulation 40 Section 29 (1) of the Caravan Sites and Control of Development Act 1960 states that a caravan is defined as 'any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer)'. Within the Appeal documents are photographs, plans and descriptions of the subject mobile home, it is clear from these papers that the mobile home is a caravan as defined by the Act, and therefore not a building. The mobile home is not permanently attached to the ground and is capable of being moved from one place to another as described in the Act.

Further the case law quoted by the CA and partially by the Appellant relate to far larger structures (chicken sheds and a marquee) and not mobile homes, these cases do not fall within the compass of the Caravan Sites and Control of Development Act 1960, but do provide useful tests to establish whether a structure can be considered a building for planning purposes, the test of size, permanence and physical attachment to the land. The arguments regarding the degree of affixation to the land are less relevant here as by definition what stands on the site is a caravan and not a building.

It is my decision that the mobile home existing on the site is not a building for the purposes of CIL under CIL Regulation 40 as it is a caravan as defined by the Caravan Sites and Control of Development Act 1960. It is my decision, given the representations before me, that the caravan cannot be used to offset the area of new build as detailed within the planning decision ([redacted]).

The CIL Appeal decision submitted by the CA as part of their representations, details a similar issue to this appeal. The nature of the proposed caravan on the site was the provision of a mobile home similar to the appeal subject to be removed, it was not a touring caravan, but is was capable of being moved and not permanently affixed to the land.

The other grounds of appeal detailed above are not pertinent as it is my decision that for CIL purposes the caravan on the site does not constitute a building. The plant room mentioned in

the appellant's comments to the CA's representations as another building due to be demolished and hence another deduction within the calculation should not be allowed as a deduction as it is not within the subject planning permission site.

13. On the basis of the evidence before me and having considered all of the information submitted in respect of this matter, I am therefore of the view that the CIL charge in this matter is £[redacted] ([redacted]).

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