

Appeal Decision

by [REDACTED] MRICS

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

Valuation Office Agency (SVT)



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

Appeal Ref: [REDACTED]

Planning Permission Reference: [REDACTED]

Location: [REDACTED]

Development: Full application for proposed erection of 5 dwellings.

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 [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 Consent [REDACTED] issued by [REDACTED] on [REDACTED].
 - b. CIL Liability Notice reference [REDACTED] issued by the CA on [REDACTED] at £ [REDACTED] CIL liability.
 - c. The CIL Appeal Form dated [REDACTED] submitted by the appellant under Regulation 114, together with documents and correspondence attached thereto.
 - d. The CA's representations to the Regulation 114 Appeal dated [REDACTED].
 - e. Further comments on the CA's representations prepared by the appellant and dated [REDACTED].

2. Planning Consent reference [REDACTED] for the development was granted and issued by [REDACTED] on [REDACTED].
3. A CIL Liability Notice reference [REDACTED] was issued by the CA on [REDACTED] for the amount £ [REDACTED] ([REDACTED]) based on the CA's assessment of Gross Internal Area (GIA) for the proposed development of [REDACTED]m². There was no existing building area to deduct from this GIA.
4. The appellant requested a Regulation 113 Review of the Chargeable Amount in an email to the CA dated [REDACTED].
5. The CA confirmed its calculation of the Chargeable Amount on [REDACTED] at £ [REDACTED] ([REDACTED]).

6. The CA calculated the CIL charge as follows:-

Chargeable Area [REDACTED] m²
X £ [REDACTED] /m² X Index [REDACTED]
= £ [REDACTED] CIL liability

7. On [REDACTED] the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL charge should be £ [REDACTED] ([REDACTED]) based on a GIA of [REDACTED]m².
8. With regard to the main grounds of appeal relating to the level of CIL charge proposed by the appellant, they have raised three issues:-
 - i. The CA's method of calculating the chargeable area.
 - ii. They contend that if the houses were detached rather than semi-detached or terraced, the CIL calculation would give rise to a lower chargeable area.
 - iii. The garages should not be included in the calculation of chargeable area, as they do not form part of the space available for residential use.
9. With regard to i. the method of calculating the chargeable area: the CA note that there were 5 dwellings approved by this planning application. Dwellings 1 to 3 are adjoining, as are dwellings 4 and 5. The CA has taken the view that each set of adjoining dwellings constitutes one building.
10. With regard to ii. the appellant's contention that if the houses were detached rather than semi-detached or terraced, the CIL calculation would give rise to a lower chargeable area. The fact is that the two separate buildings that make up the development are a block of three terrace houses and a pair of semi-detached houses, and it is irrelevant what the CIL calculation would have been for detached houses on the site.
11. With regard to iii. the appellant is of the view that garages should not be included in the calculation of chargeable area.
12. 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”.

Definition of GIA in 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.

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.*

13. 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 blocks of dwellings (1 to 3 and 4/5) as two buildings under one development, and thus treating the party walls between 1 to 3 and between 4 and 5 as internal partitions to be measured through for GIA purposes.

14. The GIA of the proposed development should thus be [REDACTED] m2 as per the CA's calculation based on the floor plans:-

Plots GIA in m2

Plan ref:

1-3 ground floor [REDACTED]

1-3 first floor [REDACTED]

4-5 ground floor [REDACTED]

4-5 first floor [REDACTED] [REDACTED]
 4-5 garages [REDACTED] [REDACTED]
 Total [REDACTED]

15. Considering iii. the two garages totalling [REDACTED]m2 area, the RICS Code of Measuring Practice (6th Edition) s2.16 on GIA states that garages should be included in the GIA measurement of the building.
16. The GIA of the proposed development would thus be [REDACTED]m2 as per the CAs calculation at 14. above.
17. It is noted that in the CA's calculation of CIL charge they have applied a chargeable area of [REDACTED]m2 when in fact their calculations from the plans submitted totalled [REDACTED]m2. This appears to have been an error, and an attempt at correction was made within the CA's representations dated [REDACTED], where they have used a chargeable area of [REDACTED]m2 – this is still not exactly the same as their stated calculation of chargeable area from the plans of [REDACTED]m2 however.
18. It is also noted that the Chargeable Amount as calculated in the CA's CIL Liability Notice reference [REDACTED] issued on [REDACTED] is incorrectly stated as being £[REDACTED] when in fact the calculation using the incorrect chargeable area noted above should have been as follows:-

Chargeable Area [REDACTED]m2 (see 17. above regarding this GIA)
 X £[REDACTED]/m2 X Index [REDACTED]
 = £[REDACTED] CIL liability

19. Utilising the GIA of the proposed development as determined at 16. above, the CIL charge will be correctly calculated as follows:-

Chargeable Area [REDACTED]m2
 X £[REDACTED]/m2 X Index [REDACTED]
 = £[REDACTED] CIL liability

20. 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]) would be appropriate, but as this figure is slightly higher than that in the Liability Notice I hereby dismiss the appeal and confirm the figure of £[REDACTED] ([REDACTED]).

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