

# Appeal Decision

by [REDACTED] BSc(Hons) MRICS

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

Valuation Office Agency (SVT)

[REDACTED]

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

---

**Appeal Ref:** [REDACTED]

**Planning Permission Ref.** [REDACTED] **granted by** [REDACTED]  
**on** [REDACTED].

**Location:** [REDACTED]

**Development: Retrospective application for variation of condition 14** [REDACTED]

---

## Decision

I hereby decide that the Community Infrastructure Levy (CIL) charge payable in relation to this development is £ [REDACTED] ([REDACTED]).

## Reasons

1. I have considered all the submissions made by [REDACTED] of [REDACTED] on behalf of [REDACTED] (the Appellant) and by [REDACTED], the Collecting Authority (CA).
2. Planning permission for the above development was granted by [REDACTED] on [REDACTED].

3. It is understood that prior to the grant of the above mentioned planning permission recent planning history on the site was as follows:-

██████████ - Erection of replacement dwelling house, together with ██████████ garage, following demolition of existing farmhouse and ██████████ outbuildings/farm structures.

██████████ - Amendment to design of replacement dwelling and garages approved under ██████████ and new proposal for access from ██████████.

██████████ - Erection of replacement dwelling and conversion of farm outbuildings. Amendment to approved application ██████████.

██████████ - Non-material amendment for a basement. ██████████.

██████████ - Non-material amendment for changes to windows and materials and deletion of rear bay.

██████████ - Application to vary Condition No. 14 of approved ██████████

██████████ - Variation of condition 14 of approved planning permission ██████████

██████████ - Application to ██████████ outbuildings/barns with guest accommodation, ██████████.

4. Following grant of planning permission ██████████ the CA issued a CIL Liability Notice (reference ██████████) on ██████████. The CIL charge is based on a chargeable area of ██████████ square metres (sq m) at a rate of £██████████ per sq m plus indexation giving a total liability of £██████████ plus surcharges.

5. On ██████████ the appellant contacted the CA to request a review of the CIL charge.

6. On ██████████ the CA completed the review of the CIL charge and concluded that the chargeable amount stated on the Liability Notice had been correctly calculated.

7. On ██████████ the Valuation Office Agency received a CIL appeal made under Regulation 114 of the CIL Regulations 2010 (as amended) (a chargeable amount appeal).

8. The appellant contends that the CIL Charge should be £██████████ based on the additional floor area of the house effectively approved by the variation permitted under application reference ██████████ (the ██████████ consent). The appellant explains that the dwelling was built ██████████m wider than permitted at both sides of the house and the ██████████ consent was retrospectively required to regularise the extended elevations of the dwelling which was originally permitted under application reference ██████████, as amended by planning permission ██████████, both prior to CIL implementation. Both the ██████████ and ██████████ planning permissions had already been implemented and pre-dated CIL and therefore the appellant is of the opinion that the chargeable area should be ██████████ sq m which is the increase in area as a consequence of the extended side elevations.

9. The appellant is of the view that Regulation 128A of the CIL Regulations 2010 (as amended) should apply, which in his opinion would have the consequence of reducing the

CIL on the entire development by the deduction of the charge that would have been payable in respect of the original planning permission and the S73 permission granted in [REDACTED].

10. The CA maintains that their calculation of the chargeable amount is correct and explains that planning permission [REDACTED] was required as a retrospective planning application under section 73A of the Town and Country Planning Act 1990 (TCPA) to regularise development that was commenced on [REDACTED] and completed on [REDACTED]. The development was not undertaken in accordance with approved plans for either [REDACTED] or [REDACTED], being wider than the permitted dwelling. The retrospective permission is the only lawful planning permission for the replacement dwelling.

11. Within its representations the CA explain that the original planning permission ([REDACTED]) and the amendment ([REDACTED]) were granted prior to the local Charging Schedule implementation and hence no CIL was originally levied. The subsequent retrospective planning application ([REDACTED]), required to regularise the unauthorised development, was granted on [REDACTED] and, under Regulation 7(5)(a) of the CIL Regulations, development is deemed to have commenced on the same date. The date of the retrospective permission is after the CIL Charging Schedule was brought into effect on [REDACTED] and in the opinion of the CA, the chargeable development is the entire development.

12. The CA further explain that a CIL liability notice and demand notice was issued in accordance with Regulation 7(5)(a). Self-build relief was not granted in accordance with Regulation 54B(3) since the development had commenced. The floor area of the house as permitted in previous applications prior to CIL implementation was not deducted as a 'retained part' within the calculation since on the day before the retrospective application, the house, did not have a use that could be carried on lawfully since the development had not been built in accordance with the approved plans.

13. The CIL calculation was based upon the following formula set out in Regulation 40 of the CIL Regulations 2010 as amended:

$$\frac{R \times A \times I_p}{I_c}$$

The figures used resulting in a liability of £[REDACTED] were:

Rate: £[REDACTED]  
Area: [REDACTED] sq m  
Index (Ip): [REDACTED]  
Index (Ic): [REDACTED]

14. Having reviewed the floor areas as part of the appeal the CA notes that the area of [REDACTED] sq m relates to the ground and first floors only and the chargeable area should be [REDACTED] sq m to include the basement.

15. Regulation 5(1) of the CIL Regulations 2010 (as amended) defines that planning permission includes permissions granted under section 73A of the Town and Country Planning Act 1990 (TCPA) whilst Regulation 9(1) defines that the chargeable development is the development for which planning permission is granted. Since the charging schedule was implemented on [REDACTED] I consider that the development, as approved by the [REDACTED] permission allows a development that is potentially liable for a CIL charge.

16. Application [REDACTED] is for the variation of a condition attached to an earlier permission. It is described as an application to allow "extensions to the side elevations". Having regard to the wording of the planning permission granted in this case I

consider the development permitted to be the extensions to the side elevations and under Regulation 9(1) this then comprises the chargeable development.

17. The additional floorspace relating to the side extension is [REDACTED] square metres.

18. The CIL charge is £[REDACTED] per sq m and neither this rate nor the indexation appears to be in dispute.

19. Based on the formula set out in Regulation 40 and the following inputs:

Rate: £[REDACTED]  
Area: [REDACTED] sq m  
Index (Ip): [REDACTED]  
Index (Ic): [REDACTED]

I have calculated the CIL charge to be £[REDACTED]

20. On the basis of the evidence before me and having considered all of the information submitted in respect of this matter, I therefore decide a CIL charge of £[REDACTED].

[REDACTED] BSc(Hons) MRICS  
RICS Registered Valuer  
Valuation Office Agency  
[REDACTED]