Appeal Decision

by [redacted] BA Hons PG Dip Surv MRICS

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

Valuation Office Agency (SVT)
[redacted]

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

Appeal Ref: [redacted]

Address: [redacted]

Proposed Development: Two storey detached three bedroom dwelling with car port, parking and garden.

Planning permission details: Granted [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 of the submissions made by [redacted] 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 the recent planning history was as follows:-

- [redacted] Proposed demolition of existing dwelling and erection of a new dwelling with car port.
- [redacted]

4. Following the grant of planning permission [redacted], the CA issued a CIL Liability Notice on [redacted]. This was based on a chargeable area of [redacted] square metres, arrived at by netting off the area of [redacted] from the GIA of the proposed development. This was charged at £[redacted] per square metre plus indexation producing a sum of £[redacted]. Self build relief was granted to the then owners [redacted], reducing the liability to £[redacted].

5. It is understood from the information provided by the Appellant in the CIL Appeal form dated and received on [redacted] that the property, [redacted] was demolished by [redacted] in [redacted].

6. The CIL Appeal form explains that [redacted] sold the plot to the Appellant following this demolition and the Appellant applied for planning permission having altered the design from that set out in [redacted]. Planning permission for the revised design was granted on [redacted] under reference [redacted].

7. The CA issued CIL Liability Notice [redacted] on the [redacted]. The liability was calculated at £[redacted] as follows:
Chargeable development Gross Internal Area (GIA) = [redacted] m². * [redacted] residential rate £[redacted] * indexation at [redacted].

8. The Appellant requested a Regulation 113 Review on [redacted]. The Appellant calculated the CIL Liability at £[redacted] having netted off the GIA of the former dwelling, [redacted], at [redacted] m² from the GIA of the chargeable development which has a GIA of [redacted] m².

9. The CA issued their Regulation 113 Review of Chargeable Amount on [redacted], reaffirming the CIL Liability at £[redacted]. The CA advised that as [redacted] was not standing on the day planning first permitted the development, and so in effect was not an 'existing building', it was not possible to assess it for offsetting.

10. On [redacted] the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) from the Appellant.

11. The appellant contends that the CIL Charge calculated by the CA is incorrect because:-

a) 'The exemption for demolished floor space was taken into account on the initial planning permission so feel that this again should be taken into account now [redacted] are liable for CIL payment.'

b) 'after reading the relevant regulations we feel there are conflicting statements that do not make it clear the existing property is required to be standing –especially in this special circumstance where the original self-build developer decided not to build and sell to use, a developer who will pay CIL, but an agreeable amount due to the above.'

12. The CA contend that their calculation of the chargeable amount is correct because:-

a) It is the CA's opinion that there is no doubt there was no building on the site at the time planning permission [redacted] was granted on [redacted].

b) Offsetting of existing buildings can only be assessed where a relevant building is situated on the relevant land to an application on the day planning permission first permits development. As the building in question has been demolished, offsetting is not available. Liability Notice [redacted] is therefore correct and the liability is £[redacted]

c) The CA have provided photographs from [redacted] which shows [redacted] had been demolished.

13. With regard to the grounds a) and b), the Appellant is effectively contending that the GIA of the original dwelling, [redacted], should be netted off the GIA of the chargeable development. The history of the site is such that planning application [redacted] consented to the demolition of the existing dwelling and the erection of a new dwelling with car port. The original owners of the property implemented this planning permission when they began works and demolished the property in [redacted].

14. The Appellant purchased the cleared site from the original owners and subsequently submitted [redacted] which altered the design of the planning approved in [redacted]. The development approved in [redacted] then became the chargeable development. In order for the existing building area to be netted off the new dwelling area within the net chargeable area calculation, that building has to be a "relevant building" and "in use" under Regulation 40 (11) of the CIL Regulations 2010 (as amended). A relevant building is defined as a "building which is situated on the relevant land on the day planning permission first permits the chargeable development".

15. Under Regulation 8 (2) of the CIL Regulations 2010 (as amended) "the time at which planning permission first permits development" is defined as "the day that planning permission is granted for that development". In this case the development is the construction of a two storey detached three bedroom dwelling with car port, parking and garden granted permission under [redacted] on [redacted].

16. Limited details have been provided by the parties regarding permission [redacted] (the proposed demolition of existing dwelling and the erection of a new dwelling with carport). However, I can only assume that as further planning applications were made under [redacted] and [redacted] (both of which were refused), and [redacted] (approved), that the Appellant wished to vary the design of the proposed dwelling from that approved in [redacted].

17. Permission for the Appellant's amended design was granted permission on the [redacted]. This then became the chargeable development and both parties agree at this time that the original dwelling had already been demolished.

18. I therefore conclude that [redacted] cannot be considered to be a 'relevant building' and consequently its area cannot be netted off the area of the new development as it had been demolished prior to the granting of permission [redacted].

19. There would appear to be no dispute as to the area of the chargeable development, the rates or indexation applied. However, I have noted a minor error in the CA's calculation and I determine that the amount of CIL payable should be as follows:

[redacted] m² * £[redacted] = £[redacted] * indexation at [redacted] = £[redacted] ([redacted])

[redacted]

[redacted] BA (Hons) PG Dip Surv MRICS
RICS Registered Valuer
Valuation Office Agency
[redacted]