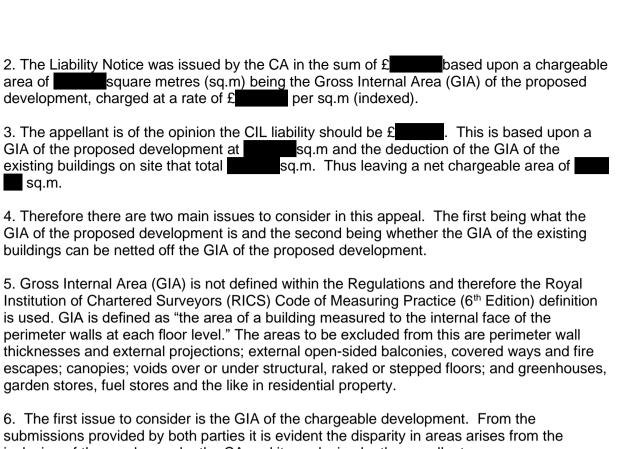
## **Appeal Decision**

by BA (Hons) PG Dip Surv MRICS
an Appointed Person under the Community Infrastructure Levy Regulations 2010 (as Amended)
Valuation Office Agency
Email: @voa.gsi.gov.uk
Appeal Ref:
Planning Permission Ref. granted by
Location: land adjacent to
Development: Erection of a dwelling following demolition of existing buildings
Decision
determine that the Community Infrastructure Levy (CIL) payable in this case should be
Reasons
1. I have considered all the submissions made by the (the appellant) and collecting Authority (CA), in respect of this matter. In particular I have considered the information and opinions presented in the following submitted documents:-
a. The application for planning permission dated together with associated plans drawings and documents.
<ul> <li>b. The Decision Notice issued by the control of the CIL Liability Notice dated in the sum of the control of the contr</li></ul>
e. The Regulation 113 – Review of Chargeable Amount issued by the CA on the The CIL Appeal form dated submitted by the appellant under Regulation 114, together with the 7 documents attached thereto.
g. Further documents provided by the appellant on the which included planning documents relating to the proposed development, correspondence with pertaining to the Regulation 113 review, a sworn affidavit by the appellant attesting to the use of the existing buildings along with statements from the other joint owners to the same effect and evidence from energy companies that show a De Minimis amount of electricity consumption at the premises from 2010 onwards.
h. The CA's representations to the Regulation 114 Appeal dated i. The appellant's response to the CA's comments dated.

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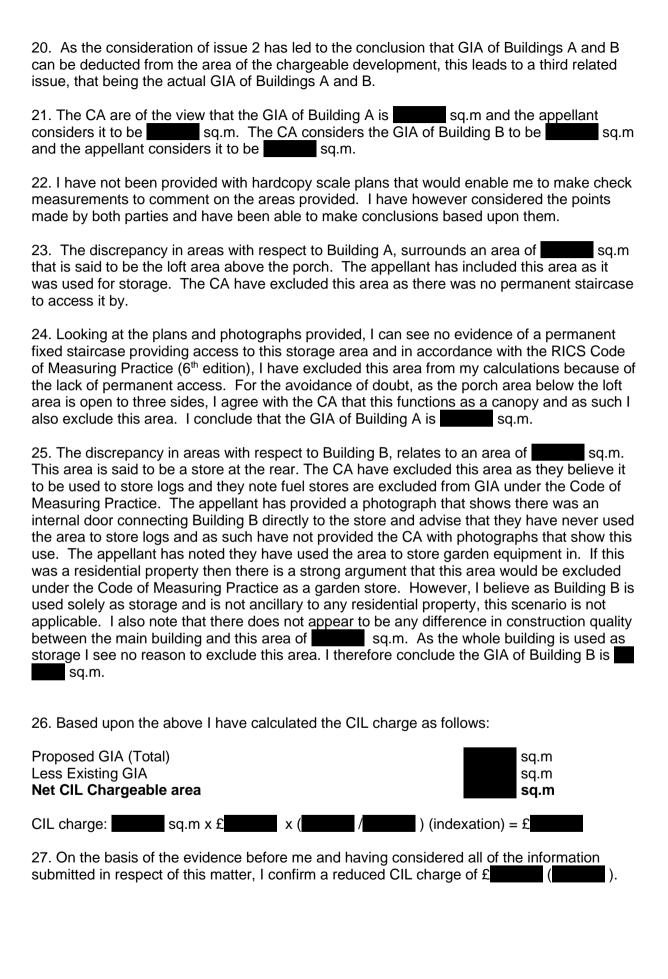
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- inclusion of the porch area by the CA and its exclusion by the appellant.
- 7. My understanding of the porch area from the plans and documents provided, is that the north elevation is open, the south and east elevations are enclosed and the west elevation is partially enclosed. In accordance with the RICS Code of Measuring Practice (6th edition) I concur with the CA that this area should be included within the GIA and as such, the area of the chargeable development is, sq m.
- 8. The second issue relates to whether the area of the existing buildings on site can be deducted from the GIA of the proposed development to arrive at the net chargeable area. Regulation 40(7) of the CIL Regulations 2010 (as amended) provides that the net chargeable area of the proposed development should be calculated based upon a formula which is essentially the GIA of the proposed development less retained parts of lawfully in-use buildings. An 'in-use building' is defined by regulation 40(11) to mean a building which is a relevant building (a building which is situated on the relevant land on the day planning permission first permits development) and contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.
- 9. The CA has not made any deduction in respect of 'in-use' buildings. They have confirmed that they accept the buildings known as Building A and Building B are relevant buildings as they existed on the relevant land on the day planning permission first permitted the chargeable development but the CA have concluded that they do not have sufficient information or information of sufficient quality to establish that Buildings A and B are 'in use' buildings
- 10. The CA in support of this decision have noted that Building B was constructed in accordance with permission as an ancillary gymnasium and that it is not considered to be in that use at present. The CA notes there is no initial planning permission for Building Α.
- 11. The CA notes the appellant's submissions show the buildings have had a variety of uses over the years including a gym, owner/manager accommodation, ancillary residential outbuildings, studio/workshop and for use as storage. The CA have noted that the Design and Access Statement submitted with the planning application for the development, states

Building A retains a bathroom, kitchen, bedroom and living room. The CA have concluded from the information provided, they cannot, with any certainty, establish when residential use was abandoned and when storage commenced. They make the same observation for Building B. They cannot be certain when the transition from ancillary nursing home building to ancillary residential use occurred nor when it became used for storage no longer connected to a residential unit.

12. The appellant has provided a number of documents, including a sworn affidavit and witness statements from the other owners that provide a background as to the current use of the buildings and when this use was established. They have also provided photographs showing both the interior and exterior of the buildings dating from
13. The appellant advises that his parents purchased the site in along with and the surrounding land and outbuildings that included Buildings A and B. The appellant notes that his parents ran the nursing home and Building A was used for storage in connection with the business and Building B was reconfigured as owner-manager accommodation. The nursing home was sold in and the subject buildings. I understand there was a period in the subject buildings. I understand there was a period in the subject building A whilst was refurbished. After this, Building A was used for domestic storage and Building B as a studio/workshop and storage space.
14. The appellant's father passed away in and the appellant's mother inherited Buildings A and B. In the appellant's mother split the land, retaining the subject land with Buildings A and B upon, to the appellant, his brothers and their wives. In the appellant's mother sold and moved to the appellant and moved to the appellant's mother sold.
15. Since at least , the appellant states that Buildings A and B have been used by himself and the other co-owners to store personal possessions. None of the owners live in the adjoining properties. The owners have visited from time to time to pick up and drop off items for storage and to carry out some maintenance to the properties.
16. The appellant notes the Buildings are not connected to the mains gas supply available in the locality and have no independent water supply. Building A does have an electricity supply but evidence provided shows minimal usage from to present day.
17. Given the history of the site and the evidence provided by the appellant that shows Buildings A and B being used for storage of personal possessions over a number of years and the very low amount of electricity consumed, I conclude that the Buildings were used for the storage of personal possessions and have been since at least . There is no evidence to suggest that the Buildings have been used for anything but storage since this date and as the Buildings have been in use for storage for at least 10 years, this use would now be considered their lawful use.
18. To qualify as an 'in-use' buildings, the Buildings must have been in lawful use for a continuous period for at least six months within the period of three years ending on the day planning permission first permits the chargeable development.
19. The appellant has provided photographs showing the Buildings were used for storing possessions and these date from between and and I therefore conclude Buildings A and B were in lawful use for a continuous period of at least six months during the relevant period.



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