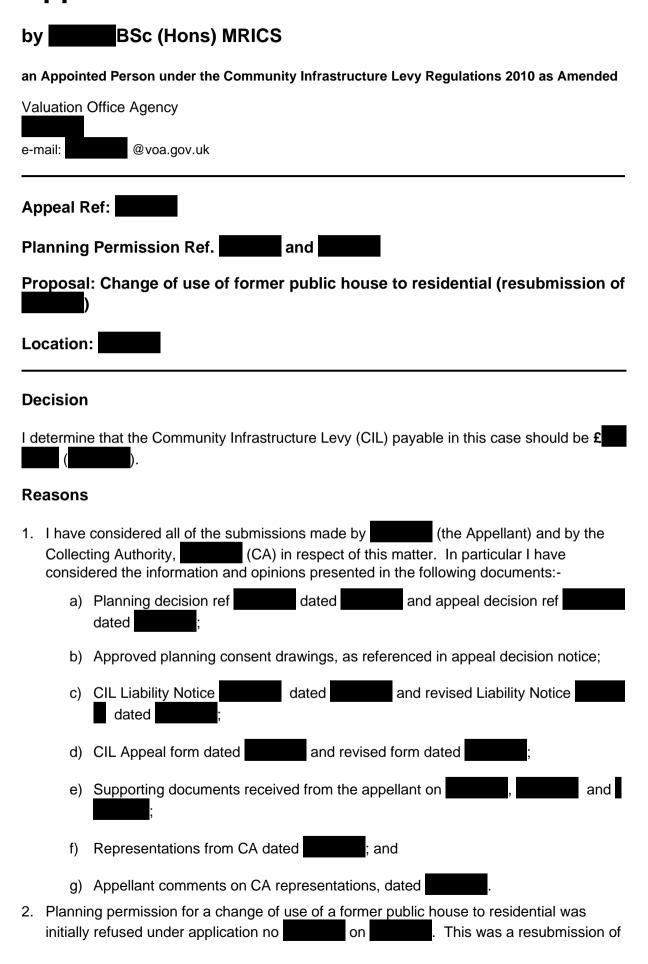
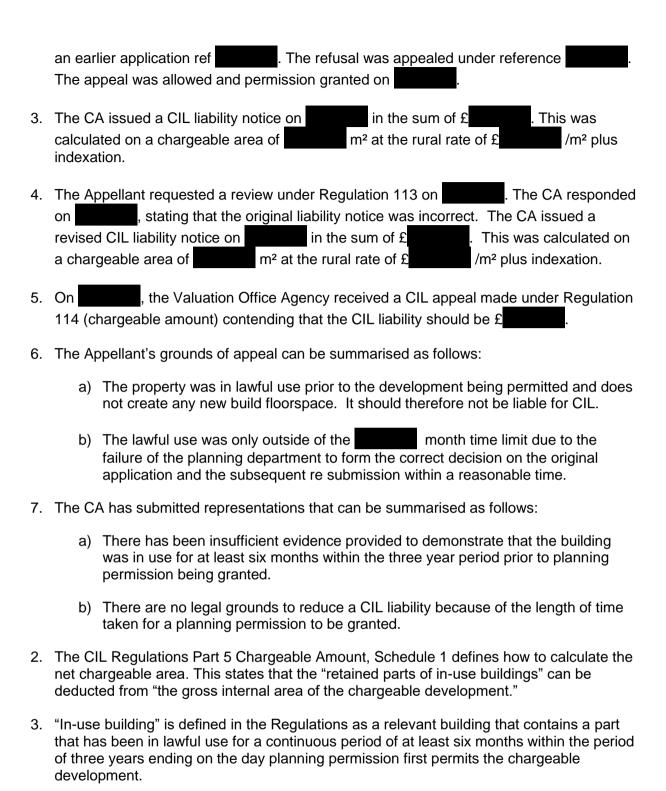
Appeal Decision



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4. The appellants have provided no evidence that the property was occupied within the time

a licensed premises that is legally available for use, it should be classed as in-use. However, I do not consider that being available for use is equivalent to being in use.

but does not give an exact date. The appellants state that the pub was designated as an "Asset of Community Value" and as it retains its facilities and rateable class and remains

period required. The planning appeal decision states that the pub closed in

- 5. The appellants appear to suggest within their representations that the pub was not in use within the three years prior to the grant of planning permission but it was in use within the three years prior to the original refusal dated. The regulations are clear that the time period ends on the day planning permission was granted and therefore the earlier decision date cannot be taken into account.
- 6. The CA state within their Regulation 113 review that the upper floors are residential and the permission can be treated as an extension to the residential use of the upper floors, rather than a formation of a new dwelling. I have been provided with no evidence to suggest that the residential element has been occupied within the relevant time period.
- 7. Schedule 1 (9) states that where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish whether any area of a building falls within the definition of "in-use building" then it can deem the GIA of this part to be zero. I therefore conclude that the existing building cannot be treated as "in-use."
- 8. The appellants have requested that discretion be used in reaching a decision in this case, as they consider that they have received unnecessary delays and improper treatment by the CA. However, the VOA have no authority to use discretion in determining CIL appeals and can only apply the Regulations as they are written.
- 9. The appellants have not queried the GIA or the rate applied and I have assumed that this element is not in dispute. I have therefore adopted the figures used by the CA.
- 10. On the basis of the evidence before me, I determine that the Community Infrastructure Levy (CIL) payable in this case should be £ (().

