

Appeal Decision

by [REDACTED] BSc(Hons) MRICS

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

Valuation Office Agency (DVS)

Email: [REDACTED] voa.gov.uk

Appeal Ref: 1759732

Address of property: [REDACTED]

Development: Conversion of existing barns and workshop to provide 2 no. succession dwellings

Planning permission details: [REDACTED] granted by [REDACTED]

Decision

I determine that there should be no Community Infrastructure Levy payable in respect of the above development.

Reasons

1. I have considered all the submissions made by [REDACTED], the appellant, and I have also considered the representations made by the Collecting Authority (CA), [REDACTED]. In particular, I have considered the information and opinions presented in the following documents:-

- (a) Planning permission decision letter dated 1 [REDACTED]
- (b) The CA's Liability Notice dated [REDACTED]
- (c) The CA's Decision Notice on review of CIL chargeable amount dated [REDACTED]
- (d) Completed CIL Appeal form dated [REDACTED] and additional supporting documents submitted with the CIL Appeal as follows:

- (i) Plans drawn by [REDACTED] dated [REDACTED]
- (ii) Notice of Assumption of Liability
- (iii) Letter from [REDACTED] dated [REDACTED]
- (iv) Email correspondence between the appellant and the CA in relation to the CIL calculation

- (v) Copies of approved plans and other documentation and assessments submitted with the planning application

(e) The CA's representations in a letter dated [REDACTED] and additional supporting document submitted by the CA as follows:

- (i) [REDACTED] CIL Charging Schedule
- (ii) Form 1 submitted by the appellant's agent dated [REDACTED]
- (iii) [REDACTED]'s proposed GIA measurements, dated [REDACTED]
- (iv) Liability Notice dated [REDACTED]
- (v) Regulation 113 Review response dated [REDACTED]
- (vi) [REDACTED]'s proposed GIA measurements, dated [REDACTED]
- (vii) Email correspondence regarding Existing First Floor dated [REDACTED]
- (viii) Email correspondence including photos of First Floor dated [REDACTED] (ix) Appeal Decision regarding loft space

(f) The appellant's comments on the CA's representations received on [REDACTED]

2. Planning permission was granted on [REDACTED] by [REDACTED] for conversion of existing barns and workshop to provide 2 no. succession dwellings.

3. On [REDACTED] the CA issued a Regulation 65 Liability Notice [REDACTED] in the sum of £ [REDACTED] based on net additional floorspace of [REDACTED] square metres (sq.m) as follows:-

Total Development	[REDACTED] sq.m
Demolitions	0.00 sq.m
Existing Use	[REDACTED] sq.m
Chargeable Area	[REDACTED] sq.m

4. The appellant requested a review of the calculation of the chargeable amount under Regulation 113 on [REDACTED].

5. This led to an exchange of emails between the parties over the existing first floor floorspace and the CA issued its decision of the review on [REDACTED] maintaining that the development is CIL liable in a sum of £ [REDACTED]. The CA further explained that the approved plans had been re-measured and their re-calculation was actually as follows:

Total Development	[REDACTED] sq.m
Existing Use	[REDACTED] sq.m

In the opinion of the CA the existing first floor areas did not have permanent access since this was provided by a ladder and have therefore been excluded from their calculations. The CA calculated that the revised net chargeable area should result in a charge of £ [REDACTED] but as a gesture of goodwill the CA have said that they would honour the original charge in the Liability Notice issued.

6. On [REDACTED] the appellant submitted a CIL Appeal under Regulation 114 (chargeable amount) stating that the chargeable amount should be £nil.

7. The grounds of the appeal can be summarised as: the first floor floorspace does have permanent access, does meet the RICS Code of Measuring Practice (6th edition) definition of gross internal area (GIA) and should therefore be included as a deduction within the calculation of the net chargeable area. In support of this view the appellant has submitted a letter from [REDACTED] BSc (Hons) MSc MRICS and architect's plans showing digitally calculated floor areas in square metres as follows:

Existing

Ground Floor

[REDACTED] Barn	[REDACTED] sq.m
[REDACTED] Barn	102.1 sq.m

First Floor

[REDACTED] Barn	[REDACTED] sq.m
[REDACTED] Barn	[REDACTED] sq.m

Total Existing: [REDACTED] sq.m

Proposed

Ground Floor

[REDACTED] Barn	[REDACTED] sq.m
[REDACTED] Barn	[REDACTED] sq.m

First Floor

[REDACTED] Barn	[REDACTED] sq.m
[REDACTED] Barn	[REDACTED] sq.m

Total Proposed: [REDACTED] sq.m

8. The letter from [REDACTED] attaches plans and photographs of the accesses to the first floor areas and explains that the first floor dryer area has 2 accesses via ladder stairs with fixed hand rails and mountings which have been in existence for over 50 years whilst the first floor workshop area has one access via metal ladders bolted into the timbers which has been in existence for at least 20 years. [REDACTED] also refers to the RICS Code of Measuring Practice (6th Edition) and it is his opinion that since the first floor areas in question are accessed via existing ladders, this access is sufficient to be included within "Horizontal floors, with permanent access, below structural, raked or stepped floors" and that these areas should therefore be included within the GIA. Since the appellant's proposed area is less than the existing area, the appellant is of the view that there should be a nil charge.

9. The CA submitted representations on [REDACTED] which can be summarised as follows:-

- (i) The CA used the information provided in the submitted Form 1 (dated [REDACTED] and measured approved plans to arrive at the original net chargeable area of [REDACTED] sq.m.
- (ii) The CA notes that no 'existing' first floor plan was submitted with the planning application.
- (iii) Following the review request and further information received from the appellant, the CA amended its view and deducted [REDACTED] sq.m of storage from both the existing and proposed GIA's and increased the proposed GIA to reflect an internal 'deck' area that had been incorrectly excluded previously to arrive at revised net chargeable area of [REDACTED] sq.m and a charge of £[REDACTED].

10. For comparison the CA has set out the details of its calculations for the proposed area in square metres as follows:

Proposed

Ground Floor

Dryer Barn [REDACTED] sq.m

Workshop Barn [REDACTED] sq.m

First Floor

Dryer Barn [REDACTED] sq.m

Workshop Barn [REDACTED] sq.m

Total Proposed: [REDACTED] sq.m

11. The CA is of the opinion that the difference in the two parties' proposed floor area calculations is due to the appellant excluding areas below 1.5m in height in the first floor of the dryer barn and including void areas.

12. The CA notes that the difference between the two parties' existing floor areas is in relation to the first floor that was not included on plans submitted with the planning application. The CA considers that this loft space is accessed by a ladder only and does not satisfy the definition of GIA in the RICS Code of Measuring Practice (6th Edition). In support of this view the CA has submitted a redacted version of a VOA CIL decision whereby the Appointed Person confirmed that a loft space with a loft ladder should not be included in GIA. The CA is of the view that the ladders to the aforementioned first floor area are akin to a loft ladder and do not form a permanent access.

13. The appellant submitted comments on the CA's representations dated [REDACTED] reemphasising some of his original points, particularly in relation to the permanency of the access ladders, and contesting that the first floor areas were marked on the submitted and approved plans as "mezzanine" and "grain store – no access to survey". The lack of access was due to uncertainties regarding the stability of the structure.

14. Having fully considered the representations made by the appellant and the CA, I would make the following observations regarding the grounds of the appeal:-

15. Both parties accept the existence of the first floor areas and so the possible omission of the areas on the submitted plans is not of relevance in my opinion. The CIL Regulations do not define GIA, so it is necessary to adopt a definition and the definition provided in the RICS Code of Measuring Practice (6th Edition) is the generally accepted method of calculation.

Both parties have made reference to the RICS Code of Measuring Practice (6th Edition) and within this, 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 floor 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 fire escapes*
- *Canopies*
- *Voids over or under structural, raked or stepped floors*
- *Greenhouses, garden stores, fuel stores, and the like in residential property.”*

16. Both parties have referred to the inclusion paragraph 2.6 in relation to “Horizontal floors, with permanent access, below structural, raked or stepped floors” as being relevant for the consideration of the upper floors in this case but I do not agree. As far as I am aware the upper floors in question are not below other structural, raked or stepped floors. From the plans and photographs provided, if they are considered to have permanent access, then they should, in my opinion, be considered as “Mezzanine floor areas with permanent access” and included as GIA.

17. In consideration of the access question I am satisfied that the ladder accesses can be considered permanent. The photographs provided show that all the access ladders are bolted in and are fixed structures. Additionally there is no evidence to dispute their permanency over time, all having been in situ for over 20 years. I note the CA has submitted a CIL Appeal decision whereby a loft ladder was decided as not being a

permanent staircase, but each case must be decided on the facts pertinent to it and I note that there is no detail on the permanency of the ladder in question in that appeal.

18. I am therefore of the opinion that the area of the first floor, as calculated by the appellant, at a total of [REDACTED] sq.m should be included within the GIA calculations of the existing development. In respect of the existing ground floor GIA there is very little difference between the two parties, the appellant has measured digitally in arriving at [REDACTED] sq.m and the CA has scaled plans and calculated it to be [REDACTED] sq.m. Given the tolerance that is to be expected from scaling plans and the small margin between the two parties' measurements I agree the appellant's total GIA at [REDACTED] sq.m for the existing building. I note that this excludes the storage area which remains unchanged in the development.

19. There is also some discrepancy between the two parties' measurements of the proposed GIA of the first floor dryer barn, the appellant measures [REDACTED] sq.m whilst the CA measures [REDACTED] sq.m. The CA has put this down to the appellant excluding areas below 1.5m in height but having scaled the plans myself I do not consider this to be correct. It appears that the CA has included a 'deck area' within its calculations whereas the appellant has not. There is no further detail of this deck, or reasoning from the appellant as to why it has been excluded, but since the CA's proposed GIA at [REDACTED] sq.m (including the deck but excluding the unchanged storage area) is less than the existing GIA at [REDACTED] sq.m I do not consider this to be a material consideration.

20. Based on the facts of this case and the evidence before me there should be no Community Infrastructure Levy payable in respect of the development.

[REDACTED]

[REDACTED] BSc(Hons) MRICS
RICS Registered Valuer
Valuation Office Agency
Date 12 March 2021