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: 1765454

Address of property: [redacted]

Development: Conversion and extension of a redundant agricultural building to form a dwelling

Planning permission details: [redacted] **granted by** [redacted] **on** [redacted]

Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £1[redacted] ([redacted]).

Reasons

1. I have considered all the submissions made by [redacted] on behalf of [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 notice dated [redacted]
(b) The CA's Liability Notice dated [redacted]
(c) The CA's letter on review of CIL chargeable amount dated [redacted] (d) Completed CIL Appeal form dated [redacted] and additional supporting documents submitted with the CIL Appeal.

(e) The CA's representations in a letter dated [redacted].
(f) The appellant's comments on the CA's representations received on [redacted]

2. Planning permission was granted on [redacted] by [redacted] for conversion and extension of a redundant agricultural building to form a dwelling.

3. On [redacted] the CA issued a Regulation 65 Liability Notice in the sum of £[redacted] based on a chargeable area of [redacted] square metres (sq.m). There was no deduction for existing floorspace within the calculation.

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

5. The CA issued its decision notice on the review on [redacted] maintaining that the CIL liability had been correctly calculated. The CA explained that the planning permission was granted under Policy 7 of the [redacted] Local Plan which supports the reuse of suitably constructed redundant, disused or historic buildings that are considered appropriate to retain. In the view of the CA the building cannot be granted permission based on the above, i.e. being redundant and then also be classed as 'In Use' to reduce the amount of CIL liability.

6. On [redacted] the appellant submitted a CIL Appeal under Regulation 114 (chargeable amount) stating that the chargeable amount should be based on a net chargeable area of [redacted] sq.m and should not include the retained building.

7. The grounds of the appeal can be summarised as: the policy referred to by the CA does not require a building to be redundant or disused, the policy also allows for the conversion of historic buildings, whether they are redundant or not. Since the building was in use for agricultural purposes the floorspace of the existing building should be offset within the CIL calculation as being 'In Use'.

8. The full text of policy 7 is:

'3. Reuse of suitably constructed redundant, disused or historic buildings that are considered appropriate to retain and would lead to an enhancement to the immediate setting. The building to be converted should have an existing lawful residential or non residential use and be ten years old or greater;'

9. The appellant confirms that he originally stated that the building was 'in use' in the CIL Additional Information Request form and, within supporting documentation submitted with the appeal, he has provided evidence of the building's use in the form of internal photographs taken in [redacted] in preparation for the supporting planning report and a photograph within the Structural Survey report dating from [redacted]. The appellant states that these show that the building is in use as storage, hanging and drying of clothes, painting of tractor parts and other activities associated with the wider agricultural use of the surrounding land.

10. The CA submitted representations on [redacted]. It acknowledged that the Regulation 113 review response suggested that the planning application was reliant on the building being redundant and this was the reason for not taking into account the existing floorspace but concedes that the response was not as full as it perhaps could have been. The CA explained its further reasoning as being that there is insufficient evidence to demonstrate that farming operations had had been continuing to take place from the building during a continuous period of at least six months in the three years prior to the planning permission being granted on [redacted]

11. The appellant submitted comments on the CA's representations on [redacted] reemphasising some of his original points.

12. I have fully considered the representations made by the appellant and the CA. Firstly I do not consider that reliance on Policy 7 necessarily requires that a building cannot be 'in-use' for CIL purposes. There is provision for the policy to apply to 'suitably constructed redundant, disused *or historic buildings*' (emphasis mine). A building can therefore still have a use, despite perhaps being redundant from its original purpose, and still qualify under Policy 7 as an historic building.

13. Secondly, I consider that there is sufficient evidence that the existing building has been in use for purposes connected with the agricultural use of the surrounding land. This evidence in the form of photographs dating from [redacted] which show the building was being used for storage, drying of work clothes and painting of tractor parts. This evidence is at a point in time within the requisite three year period but considering that the building has been used in conjunction with the continual operation of a working farm I consider that this evidence is sufficient to confirm that the building has been 'in use' for CIL purposes for the requisite period, i.e. for a continuous period of at least six months in the three years prior to the planning permission being granted on [redacted].

14. I therefore consider that the area of the existing building should be offset within the CIL calculation and the charge based on the extension floor area only. The appellant has calculated this floor area to be [redacted] sq.m and there is no evidence provided to me to suggest that this is incorrect. There also appears to be no dispute in relation to the CIL rate or the indexation and I therefore calculate the CIL charge as follows:

[redacted] sq.m @ £[redacted] per sq.m x indexation (1.047) = £[redacted]

15. Based on the facts of this case and the evidence before me I therefore determine a Community Infrastructure Levy charge of £[redacted] ([redacted] in respect of the development.

[redacted]

[redacted] BSc(Hons) MRICS
RICS Registered Valuer
Valuation Office Agency
12 May 2021