# **Appeal Decision**



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

Valuation Office Agency - DVS
Wycliffe House
Green Lane
Durham
DH1 3UW
e-mail: @voa.gov.uk.

Appeal Ref: 1784894

Planning Permission Reference:

Location:

Development: Erection of extensions to form a first floor level with habitable roof space, together with change of use of part of ground floor from office to residential to provide 3 dwellings with ground floor access and provision of new shopfront.

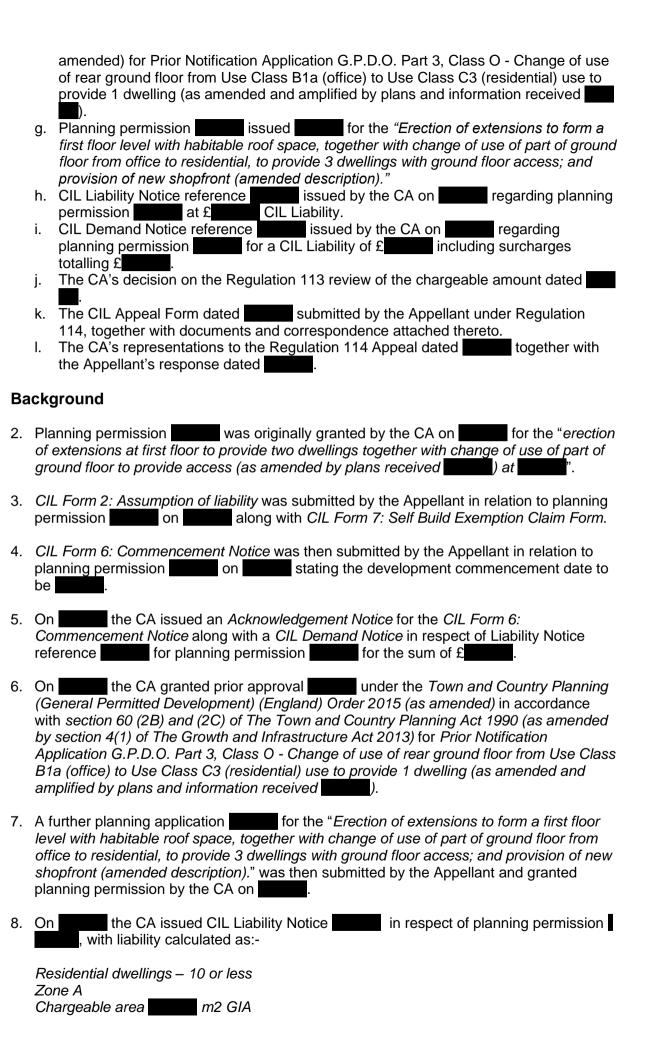
#### Decision

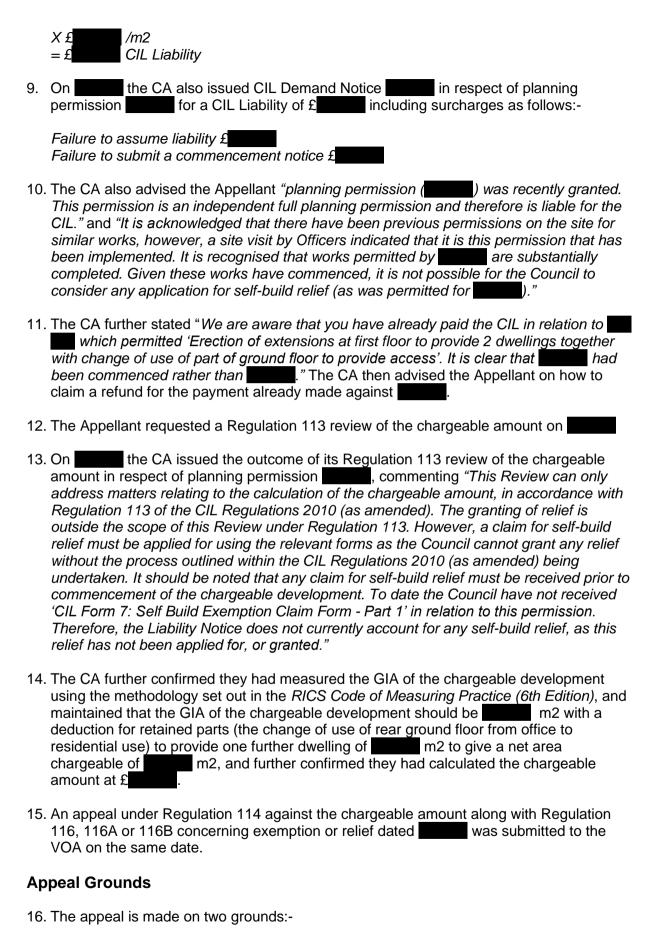
I determine that the Community Infrastructure Levy (CIL) payable in this case should be £

# Reasons

- 1. I have considered all the submissions made by the Collecting Authority (CA) in respect of this matter. In particular, I have considered the information and opinions presented in the following documents:
  - a. Planning permission granted on for the "erection of extensions at first floor to provide two dwellings together change of use of part of ground floor to provide access (as amended by plans received at a company) at granted ".
  - b. CIL Form 2: Assumption of liability along with CIL Form 7: Self Build Exemption Claim Form submitted by the Appellant regarding planning permission

  - d. Acknowledgement Notice for CIL Form 6: Commencement Notice issued by the CA on ...
  - e. The CIL Demand Notice issued by the CA on regarding Liability Notice reference for planning permission for the sum of £
  - f. Prior Approval reference issued by the CA on under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as



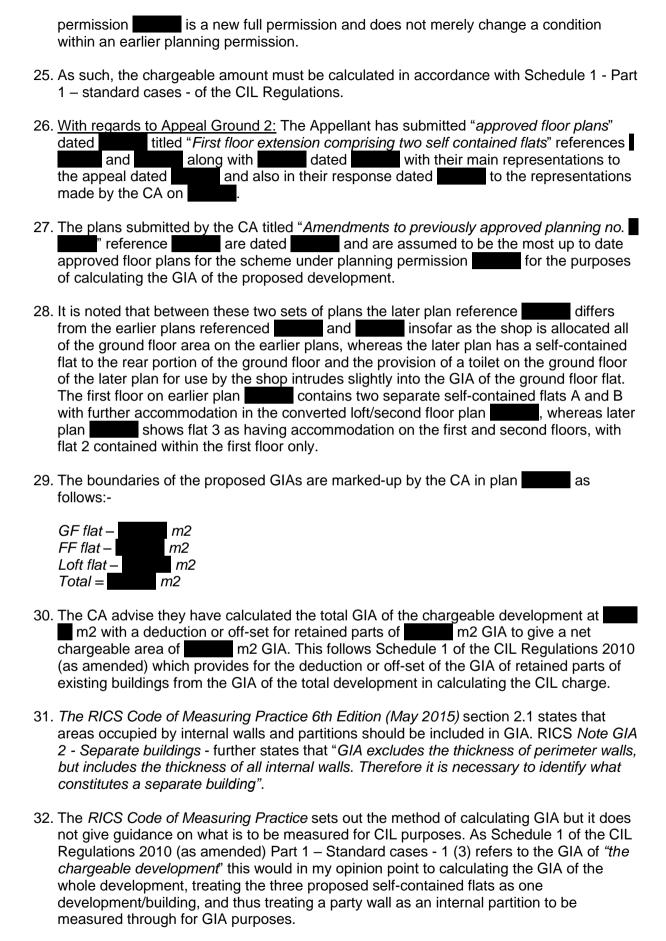


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alterations to previous planning permissions.

1) The Appellant believes that, due to previous permissions granted at the site, planning permission should not be liable to CIL, given it is the result of minor

	chargeable area (GIA).
17.	The Appellant also argues that if the planning application decision notice for dated had been issued within "the stipulated eight week time frame" they could have applied for exemptions prior to the commencement of the alterations. CIL liability was previously agreed with exemptions for the earlier planning permission and, considering the nature of planning application being for minor alterations and the "delayed" planning decision, they request the Appointed Person to consider that the exemptions applied under earlier permission should also be applied to later permission.
Со	onsideration of the appeal
18.	I have considered the respective arguments made by the CA and the Appellant, along with the information provided by both parties.
19.	With regards to Appeal Ground 1: The Appellant argues that planning application was for minor alterations to previous planning permission. These minor alterations consist of a new shop front and flat 2 being converted from a one-bedroom to a two-bedroom flat. The Appellant notes that the CA appear to consider this internal change in layout as a full planning application for the entire development rather than minor alterations.
20.	The Appellant further contends that considering the nature of the latest planning application (minor alterations) they wish the Appointed Person to consider exemptions applied under previous planning permission should also be applied to permission.
21.	The CA argues that the Appellant did not apply for a variation to any of the existing planning permissions, and that the changes were requested via an application for full planning permission, and the CA therefore subsequently granted full planning permission under reference, which is the subject of this appeal. This planning permission allows the creation of three new dwellings and therefore is a CIL liable development. As a result, the CA believes it has correctly calculated the chargeable amount and issued a Liability Notice for the planning permission granted in accordance with the CIL Regulations 2010 (as amended).
22.	It is clear from CIL Liability Notice that the development permitted under reference was the basis for the CA's CIL calculation, described as "Erection of extensions to form a first floor level with habitable roof space, together with change of use of part of ground floor from office to residential, to provide 3 dwellings with ground floor access; and provision of new shopfront (amended description)." CIL Regulation 9 (1) is clear on this point, that the "chargeable development is the development for which planning permission is granted".
23.	The planning permission notice issued on specifically refers to alterations to the ground floor to provide a further flat, along with amendments to the layout of the first and second floors. This permission was granted to enable the creation of three dwellings, whereas the previous permission had allowed only two dwellings along with some reconfiguration of the ground floor layout to enable access to the new accommodation.
24.	These changes from the earlier planning permission required the later permission before they could commence and went beyond the Appellant's claim of being only minor alterations to the earlier permission. Lam therefore of the opinion that planning



33. The RICS Code of Measuring Practice section 2.0 defines GIA as the "area of a building measured to the internal face of the perimeter walls at each floor level" with further reference to Note GIA 4 regarding what is meant by "internal face" and states that GIA:

## Includes:-

- 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 floors 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

#### Excludes:-

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fires
- Canopies
- · Voids over or under structural, raked or stepped floors

34. The CA have marked-up plan reference rev C dated

Greenhouses, garden stores, fuel stores, and the like in residential property

	of the three proposed dwellings, delineated by a thick black line which indicates that all the floorspace within that line, including areas taken up by internal walls and partitioning, has been included within the GIA measurement as per the <i>RICS Code</i> .
35.	The correct total GIA of the proposed development would therefore appear to be m2 as calculated by the CA.
36.	Following Schedule 1 of the CIL Regulations 2010 (as amended) the CA have deducted or off-set m2 from the above total GIA to calculate the net chargeable area as m2.
37.	The Appellant argues that the chargeable area should be many m2, but as they have

with the perimeters

U,	The Appellant argues that the chargeable area should be miz, but as they ha	· V C
	not indicated how they arrive at this figure it is necessary to establish the amount of f	loor
	area the Appellant is proposing to off-set from the total overall GIA. Applying the total	ıl
	proposed GIA m2 as a starting point, then deducting from this the	2 the
	Appellant proposes as the chargeable area, the difference would equate to a deducti	ion
	or off-set of m2 covering the GIA of those parts of rear ground floorspace be	ing
	changed from office to residential use (to include the ground floor access to the upper	er -
	flats). The shop area to the front remains in use as a shop.	

<ol><li>Using the archite</li></ol>	ect's annotated internal	dimensions for th	ne rear ground	floor <i>office, w/c,</i>
storeroom, panti	y and <i>stairs</i> from the ex	isting building pla	an reference	(dated

), and including the approximate depth of internal partition walls, I have calculated the	ne
otal GIA of these areas to be market	∍d-
up by the CA shows the area of the rear ground floor office, w/c, storeroom, pantry and	ł
m2, but they have only off-set m2 within their calculation of Cl	IL
iability. As the stairs are (along with the other rear portions of the ground floor) a retain	ned
part, following Schedule 1 of the CIL Regulations 2010 (as amended) all m2 of	:
his existing area must be deducted or off-set from the total GIA of the proposed	
development m2, which according to my calculations results in a chargeable are	rea
m2 GIA.	

## Calculation of CIL

39. Applying the correct chargeable area of the proposed development, the CIL Liability is therefore to be calculated as follows:-

# **CIL** exemptions

- 40. An appeal under Regulation 116B (self-build exemption) can only be made to the Appointed Person if a CA grant relief and an interested person considers the CA has incorrectly determined the value of the relief allowed. I understand that the CA have not granted relief in respect of planning permission and that no application for self-build relief in respect of this permission was made.
- 41. The issue as to whether or not self-build relief is granted is not a matter for me as the Appointed Person to decide. In an appeal under Regulation 114 the Appointed Person's role is restricted to matters only relevant to the calculation of the 'chargeable amount' in accordance with Schedule 1, Part 1 or 2 of the CIL Regulations 2010 (as amended), against which relief may, or may not, be granted by the CA.

# **Decision on CIL Liability**

42. On the basis of the evidence before me and having considered all the information submitted in respect of this matter, I therefore determine a CIL charge of £ ( ) to be appropriate.

DipSurv DipCon MRICS RICS Registered Valuer Valuation Office Agency 1 February 2022