

Appeal Decision

by [REDACTED] MRICS

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

Valuation Office Agency
Wycliffe House
Green Lane
Durham
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e-mail: [REDACTED]@voa.gov.uk

Appeal Ref: 1783104

Planning Permission Ref.: [REDACTED]

Proposal: Erection of extensions, garage and garden room, alterations to elevations and fenestration with associated landscaping, following demolition of existing extension, garage and garden room (as amplified by letter dated [REDACTED] and amended by plans received [REDACTED]).

Location: [REDACTED]

Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £0 (Nil)

Reasons

1. I have considered all of the submissions made by [REDACTED] (the Appellant) and by the Collecting Authority, [REDACTED] (CA) in respect of this matter. In particular I have considered the information and opinions presented in the following documents:-
 - a) Planning decision ref [REDACTED] dated [REDACTED].
 - b) Approved planning consent drawings, as referenced in planning decision notice;
 - c) CIL Liability Notice ref [REDACTED] dated [REDACTED];
 - d) CIL Appeal form dated [REDACTED], including appendices;
 - e) Representations from CA dated [REDACTED]; and
 - f) Appellant comments on CA representations, dated [REDACTED].
2. Planning permission was granted under application no [REDACTED] on [REDACTED] for the erection of extensions, garage and garden room, alterations to elevations and fenestration with associated landscaping, following demolition of existing extension, garage and garden room (as amplified by letter dated [REDACTED] and amended by plans received [REDACTED]). [REDACTED].

3. The CA issued a CIL liability notice on [REDACTED] in the sum of £ [REDACTED]. This was calculated on a chargeable area of [REDACTED] m² at the Residential dwellings - 10 or less (Zone B) rate of £ [REDACTED] /m² plus indexation.
4. The Appellant requested a review under Regulation 113 on [REDACTED]. The CA responded on [REDACTED], stating that after further consideration they confirmed the original CIL calculation.
5. On [REDACTED], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability should be £ 0 as the chargeable development was below the 100sqm limit set under the provisions of the Act.
6. The CA wrote to the appellant on [REDACTED] setting out their representations and made clear that in the light of the further evidence provided they agree that the existing garage qualifies as an 'in-use building' and in accordance the CA have recalculated the chargeable amount to be £ [REDACTED].
7. The Appellant's grounds of appeal can be summarised as follows:
 - a) The proposed garden room /fuel store should be excluded from the chargeable area following the definition of Gross Internal Area in the RICS Code of Measuring practice 6th edition. The GIA area of this building is agreed at [REDACTED] sqm.
 - b) Originally the Appellant raised the matter of the exclusion of the existing garage from the chargeable area on the grounds that it was a relevant building and had been in lawful for well in excess of 6 months over the three year preceding the [REDACTED]. As can be seen from the CA letter dated [REDACTED] this is now accepted and the chargeable amount recalculated to £ [REDACTED].
 - c) The area of the proposed garage has been contested with the Appellant maintaining that the appropriate area should be [REDACTED] sqm against the CA calculation of [REDACTED] sqm.
 - d) In light of the above it is contended that the new build development is less than 100 sqm and as a consequence is excluded from liability to CIL under Reg 42 – Exemption for minor development.
8. The CA has submitted representations that can be summarised as follows:
 - a) The proposed new garden room and store based on the plans and information submitted is considered to provide additional habitable space to the dwelling and therefore should be included within the GIA calculation.
 - b) The CA maintain that the GIA measurement of the proposed garage has been correctly calculated at [REDACTED] sqm based on the plans and information available.
9. In respect of the issues of the proposed garden room /store I have had regard to the plans submitted and in particular to the specific description of the construction and materials identified for this element:

The proposed external materials/finishes for the proposed garden room and store are as follows:

Roof: Coloured low profile metal sheeting

Walls: Coloured vertical boarding

Windows /Doors: Upvc/colour coated aluminium

Doors: painted timber

10. The definition of Gross Internal Area (GIA) is not defined within the Regulations and therefore the RICS Code of Measuring Practice definition is used. GIA is defined as “the area of a building measured to the internal face of the perimeter walls at each floor level.” Within this definition the areas to be excluded from this are 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; **and greenhouses, garden stores, fuel stores and the like in residential property.**

11. Having regard to the information available I am of the opinion that the proposed garden room and store are of a size, type and construction that would qualify them to be **excluded** from the calculation of the GIA. In the light of the above I am of the opinion having regard to all the information submitted by both by Parties in relation to the size and construction of the new garden room that the area of this element of the proposed scheme should **not** be included within the calculation of the chargeable area.

12. In respect of the dispute of the GIA of the proposed garage I have reviewed the plans provided. I would maintain the Appellants approach of using the external measurements and then deducting an amount to reflect the thickness of the walls would not give the most accurate result. The CA state that they maintain the accuracy of their calculation /measurement derived from the same plans.

In addressing this particular matter I have based my calculations from an A3 copy of the plan submitted (ref [REDACTED]). From this I have been able to confirm the accuracy of the scale of these plans at a scale of 1/100 and having measured the proposed new garage in accordance with RICS Code of measuring practice. From this I have determined the area of the proposed garage at [REDACTED] sqm.

13. The consequence of the exclusion of the proposed garden room (agreed at [REDACTED] sqm) and the adoption of an area of [REDACTED] sqm on the proposed garage gives and adjusted chargeable area of [REDACTED] sqm .

14. Clearly the impact of such small changes to this calculation are very impactful in this matter. I therefore conclude that the provisions of Regulation 42, Exemption for Minor Development, which states that “*Liability to CIL does not arise in respect of a development if, on completion of that development, the gross internal area of new build on the relevant land will be less than 100 square metres*”, will apply.

15. Therefore I determine that the Community Infrastructure Levy (CIL) payable in this case should be £ 0 (Nil)

[REDACTED] MRICS
Valuation Office Agency

9th March 2022.