

# Appeal Decision

by [REDACTED] MRICS

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

Valuation Office Agency  
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**Appeal Ref: 1793622**

**Planning Permission Ref. [REDACTED]**

**Proposal:** Change of use of cow shed to 1no. holiday let with widened access to frontage car parking

**Location:** [REDACTED]

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## 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] of [REDACTED] as Agent for [REDACTED] (the Appellant) and more particularly;
  - a. The sworn statement of declaration dated [REDACTED] given by [REDACTED] relating the continued lawful use over the relevant period which is in addition to the E mail dated [REDACTED] which includes photographic evidence which is stated to have been taken [REDACTED] (after the relevant date in this Appeal).
  - b. Information / statements made in the Appeal form.
2. I have considered all the submissions made by the Collecting Authority, [REDACTED] (CA) in respect of this matter more particularly;
  - a. The letter dated [REDACTED] which sets out there reasoning as to why they consider that the evidence submitted does not adequately support the argument that the building was in continuous use for 6 months over the three year period preceding the date permission was granted.
  - b. The design and Access statement.
3. Planning permission was granted under application no [REDACTED] on [REDACTED] for Change of use of cow shed to 1no. holiday let with widened access to frontage car parking .
4. The CA issued a CIL liability notice on [REDACTED] in the sum of £[REDACTED]. This was calculated on a chargeable area of [REDACTED] m<sup>2</sup> at the residential ( outside [REDACTED] ) rate of £[REDACTED] m<sup>2</sup> plus indexation.
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 on the grounds that the existing building should be offset due to the building be in lawful use for the period set down in Schedule 1 Part 1 para 10.
6. The Appellant's grounds of appeal relate only to the argument that they maintain the building was in continuous use for 6 months over the three year period preceding the date permission was granted and therefore the area should be offset in arriving at the CIL chargeable amount .
7. The CA in this case maintain that the evidence / proof submitted by the Appellant does not adequately explain / show how the building was used and how that related to the arable farm business and therefore should not be offset in arriving at the chargeable amount.

8. For the purposes of reference I set out below the following definitions.
9. In-use buildings / Lawful use
- a) The CIL Regulations Part 5 Chargeable Amount, Schedule 1 defines how to calculate the net chargeable area. This states that the “retained parts of in-use buildings” can be deducted from “the gross internal area of the chargeable development.”
  - b) “In-use building” is defined in the Regulations as a relevant building that contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.
  - c) “Relevant building” means a building which is situated on the “relevant land” on the day planning permission first permits the chargeable development. “Relevant land” is “the land to which the planning permission relates” or where planning permission is granted which expressly permits development to be implemented in phases, the land to which the phase relates.
  - d) 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.
10. In considering this Appeal I can confirm that I have had regard to all of the evidence submitted by both Parties.
11. I would confirm that the sworn statement of declaration is impactful in this case. I would also state that the internal photographs are said to have been taken on [REDACTED] which is after the relevant date for this appeal. In addition I would add that whilst they are somewhat limited in their field of view they do suggest and I believe support the Appellants claim that the building continued to be used albeit for limited long term storage **in connection with the Agricultural operations taking place on the Farm.**
12. The CA in this case do refer to the Appeal Form and para 7 where the Parties declared that the existing building had **not** been occupied for the qualifying period however they then go on to state that it was still in use.
13. The CA refer to the Design and Access statement para 5.2 which states that the cow shed has been redundant with occasional agricultural storage uses over the last few years and confirms the earlier use in connection with the livestock operations undertaken previously.
14. The CA do confirm/accept that a building can have a use despite perhaps being redundant from its original purpose and the external photographic evidence appears to show the building in fair /watertight condition and available for the use as outlined.
15. In conclusion I would confirm that having regard to all the evidence submitted and taken along with the detail relating to the farming operation at the property taking place over the relevant period I do on balance accept the argument submitted by the Appellant and that I would accept that the building was ‘in use’ for CIL purposes for the requisite period as set out above.

16. In the circumstances I determine that the CIL charge in this instance in respect of this development should be £ 0 ( Nil)

██████ MRICS  
RICS Registered Valuer  
Valuation Office Agency  
26<sup>th</sup> May 2022