Appeal Decision

by BSc (Hons) MRICS

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

Valuation Office Agency Wycliffe House Green Lane Durham DH1 3UW

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Appeal Ref: 1811058

Planning Permission Ref.

Proposal: Change of use from night club (sui generis) to 9no. flats (use class C3) and associated works

Location:

Decision

I do not consider the Community Infrastructure Levy (CIL) charge of £ () to be excessive and I therefore dismiss this appeal.

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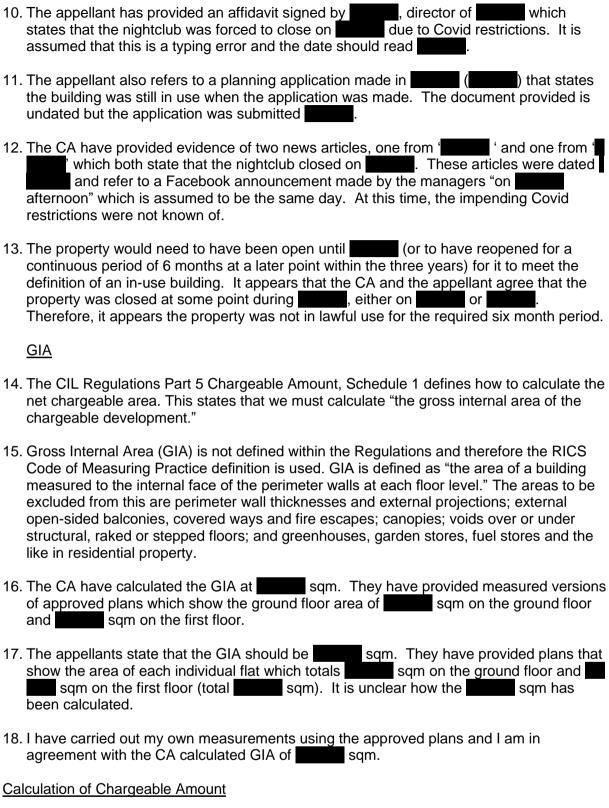
Reasons

1.	I have considered all of the submissions made by of the following (the Appellant) and 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 decision ref dated dated;
	b) Approved planning consent drawings, as referenced in planning decision notice;
	c) CIL Liability Notice dated dated;
	d) CIL Appeal form dated and, including appendices; and
	e) Representations from CA dated
2.	Planning permission was granted under application no on for 'Change of use from night club (sui generis) to 9no. flats (use class C3) and associated works.
3.	The CA issued a CIL liability notice on calculated on a chargeable area of m^2 at the 'Residential Zone 2' rate of £ m^2 plus indexation.
4.	The Appellant requested a review under Regulation 113 on . The CA responded on , stating that the liability notice was correct.
5.	On, the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability should be Nil.
6.	The Appellant's grounds of appeal can be summarised as follows:
	 The building has been in lawful use during the relevant period and should therefore be exempt from CIL.
	b) The GIA is sqm and not sq m as measured by the CA.
7.	The CA has submitted representations that can be summarised as follows:

- - a) There is insufficient evidence to support that the building was in lawful use during the relevant period. The information available suggests that it was not in lawful use and therefore the existing building should not be deducted from the CIL charge.
 - b) The GIA has been measured using the proposed plans and is considered to be

Lawful use

- 8. The CIL Regulations Part 5 Chargeable Amount, Schedule 1 defines how to calculate the net chargeable area. This allows "retained parts of in-use buildings" to be deducted from the gross internal area of the chargeable development.
- 9. "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. For this development, the three year period runs from



- 19. The CIL Regulations Part 5 Chargeable Amount, Schedule 1 provides guidance on the calculation of the chargeable amount. This states:
 - "(4) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$\frac{R \times A \times I_P}{I_C}$

where—

A = the deemed net area chargeable at rate R, calculated in accordance with subparagraph (6);

IP = the index figure for the calendar year in which planning permission was granted; and

IC = the index figure for the calendar year in which the charging schedule containing rate R took effect."

- 20. I consider that the CA have correctly calculated the chargeable amount, in accordance with the regulations.
- 21. On the basis of the evidence before me, I do not consider the Community Infrastructure Levy (CIL) charge of £ to be excessive and I therefore dismiss this appeal.

BSc (Hons) MRICS Valuation Office Agency 7 February 2023