

Appeal Decision

The Community Infrastructure Levy Regulations 2010 (As Amended)

Appellant: [REDACTED]

Chargeable Development: [REDACTED]

Appeal Decision

by [REDACTED] MRICS

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: [REDACTED]@voa.gov.uk.

Appeal Ref: 1813544

Planning Permission Reference: [REDACTED]

Location: [REDACTED]

Development: "1st floor loft conversion to existing bungalow, new vehicle entrance, erection of double bay open carport and single storey garden room"

Decision

I confirm a CIL charge of £[REDACTED] ([REDACTED]) as calculated by the Collecting Authority to be appropriate and hereby dismiss this appeal.

Reasons

1. I have considered all the submissions made by [REDACTED] (the Appellant) and [REDACTED] as the Collecting Authority (CA) in respect of this matter. In particular, I have considered the information and opinions presented in the following documents:-
 - a. Appendix A – Decision Notice for [REDACTED]
 - b. Appendix B – Liability Notice [REDACTED] confirming a CIL amount of £[REDACTED] dated [REDACTED]
 - c. Appendix C – email exchange between [REDACTED] (Agent) and the Council's Planning Infrastructure Monitoring Assistant (PIMA)
 - d. Appendix D – Email from the Council's Assistant Planning Manager (APM) to agent and applicant
 - e. The appeal form confirming a Regulation 114 appeal dated [REDACTED]
 - f. The proposed floor plans and elevations issued by the [REDACTED] dated [REDACTED]

Background

2. Following an application dated [REDACTED] planning permission reference [REDACTED] was granted on [REDACTED] for the [REDACTED].
3. A CIL Liability Notice was issued by the CA on the [REDACTED] with CIL calculated at £[REDACTED] based on [REDACTED] m2 chargeable area with [REDACTED] m2 offset for existing use.
4. On [REDACTED] the Appellant requested a Regulation 113 Review of the chargeable amount on the basis that the GIA of the additional development is calculated to be below 100m2 and would therefore not trigger a CIL payment. They had said *"Our GIA calculation fell under the 100m2, as per the attached calculations, this was based on the carport not being into account as we deemed this to be open sided on at least 3 sides, as per the description on the proposed plans and application. The side and rear panels are purely decorative open slats, do not infill the side completely and are not supportive, therefore the structure is supported by the corner piers, thus we have deemed falling outside of the scope of CIL"*
5. On [REDACTED] the CA issued their Regulation 113 review decision, confirming their calculation of the GIA for the new development being [REDACTED] m2. The CA further noted that the Appellant had *"Whilst your comments regarding the carport area of the outbuilding are noted, and it is unfortunate that you had referred to CIL guidance relating to a different local authority rather than that provided by [REDACTED], the approved drawing titled "Proposed Plans and Elevations" dated [REDACTED] (snipped below) clearly show, by way of both floorplan and elevations, the carport area as forming part of the proposed*

outbuilding rather than a separate structure with no sides, and I am therefore satisfied that measured GIA of the 'Garden Room and Double Carport' is correct at [REDACTED] m sq."

6. The CA concluded that CIL should be calculated as:-

The CIL Total Area Charge = Chargeable Area (A) x Rate (R) x Index (I)

[REDACTED] (A) x £ [REDACTED] (R) x [REDACTED] (I) = £ [REDACTED] (CIL Total Area Charge)

7. The Appellant submitted a Regulation 114 Appeal against the chargeable amount on [REDACTED].

Appeal Grounds

The Appellant notes that the carport should not be included as part of the additional development area and by excluding this area, the total net additional area will fall below 100m² and therefore not be CIL applicable. The appellant has appealed based on the following: *"Although we accept some adjustment in the calculation of floor space for the loft space and garden room, we still dispute the calculation for the carport based on the lack of openness and clarity of the CIL guidance adopted by [REDACTED]. We understand from CIL scoping that the CIL calculation is a central government led charge and that the approach would be standardised across the relevant Charging Councils/Local Authorities. A general search of other organisations provide a clear CIL Calculation Guidance that include a description of guidance for carports within the published guidance. This is not the case for [REDACTED] who only provide a summary guidance in their published CIL Calculation Guidance/Schedule and rely on applicants' knowledge to research through their FAQs for detailed guidance. Firstly, this is not consistent with other charging organisations and secondly it states for further information to follow a link to the [REDACTED] main website and not the relevant FAQs page."*

8.

Consideration of Appeal Grounds

9. The Appellant has cited that whilst trying to find the information on the CA website, the lack of clarity led them to review information from other charging organisations due to the information being easily available. They have criticised the lack of openness adopted by the CA.
10. The Appellant has also referred to the architects' proposed drawings of the car port.
11. The CA note they have considered the proposed elevation drawings but are of the opinion the car port would still fit the definition of a chargeable area.
12. The CA have provided extracts from their FAQ's which outline that car ports are to be included in the GIA of a building being measured except for those with no sides.

Consideration of the Decision

13. I have considered the respective arguments made by the CA and the Appellant, along with the information provided by both parties.
14. Disagreement surrounding the inclusion of the carport as part of the chargeable area.
15. It appears to be common ground that the GIA of the proposed development is [REDACTED] m² as calculated by the CA, and the Appellant does not dispute this in any of the paperwork submitted.
16. The RICS Code of Measuring Practice 6th Edition (May 2015) s2.0 sets out the method of calculating GIA, being the area of a building measured to the internal face of the perimeter walls at each floor level and states it:-

Includes:-

s2.1 - Areas occupied by internal walls and partitions

s2.2 - Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like

s2.3 - Atria and entrance halls, with clear height above, measured at base level only

s2.4 - Internal open-sided balconies walkways and the like

s2.5 - Structural, raked or stepped floors are to be treated as level floor measured horizontally

s2.6 - Horizontal floors, with permanent access, below structural, raked or stepped floors

s2.7 - Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)

s2.8 - Mezzanine floors areas with permanent access

s2.9 - 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

s2.10 - Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms and the like

s2.11 - Projection rooms

s2.12 - Voids over stairwells and lift shafts on upper floors

s2.13 - Loading bays

s2.14 - Areas with a headroom of less than 1.5m

s2.15 - Pavement vaults

s2.16 - Garages

s2.17 - Conservatories

Excludes:-

s2.18 - Perimeter wall thicknesses and external projections

s2.19 - External open-sided balconies, covered ways and fires

s2.20 - Canopies

s2.21 - Voids over or under structural, raked or stepped floors

s2.22 - Greenhouses, garden stores, fuel stores, and the like in residential property

17. The CA FAQ's outlines the following as being *GIA* is the area of a building measured to the internal face of the perimeter walls at each floor level and includes:

- Areas occupied by internal walls and partitions.
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and similar.
- Atria and entrance halls, with clear height above, measured at base level only.
- Internal open-sided balconies, walkways, and similar.
- Structural, raked or stepped floors are to be treated as a level floor measured horizontally.
- Horizontal floors, with permanent access, below structural, raked or stepped floors.
- Corridors of a permanent essential nature (for example fire corridors, smoke lobbies).
- Mezzanine floor areas with permanent access.
- Lift rooms, plant rooms, fuel stores, tank rooms, which are housed in a covered structure or 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 similar.
- Projection rooms.
- Voids over stairwell and lift shafts on upper floors.
- Loading bays.
- Areas with a headroom of less than 1.5m.
- Pavement vaults.
- Garages/car ports.
- Conservatories.

The following are excluded from CIL liable floorspace:

- 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.
- Greenhouses, garden stores (sheds), fuel stores and the like, in residential properties.

For the purposes of calculating internal floorspace for CIL, and for the avoidance of doubt, the council will also include in the calculation of GIA:

- Garages.
- Car ports except for those which have no sides.
- Porches on dwelling houses.
- Conservatories.
- Basements, underground and covered car parking areas.

18. The Appellant had earlier submitted *Proposed Floor Plans* to the CA with computer generated images and a floor plan outlining the garden room and attached carport.
19. The *Proposed Floor Plan* shows the garden room to consist of a living area, bedroom with shower room, storage and attached double bay carport. The carport is to have three openings from each side with one side fully enclosed being attached to the storage area.
20. It is noted that the structure in question is referred to as a “*double car port*” by the Appellant. The evidence from the two photographs would appear to indicate the structure to be akin to an enclosed carport as it is covered at the roof space, and three sides, with two having openings. The RICS Code of Measuring Practice includes garages within GIA but does not expressly refer to carports. Nevertheless, for CIL purposes the CA has specifically mentioned the inclusion of carports with the exceptions of those without sides which would concur with the RICS Code and the requirement to measure to the internal face of perimeter walls.
21. The computer generated images, clearly show the carport as having sides, even if this is wooden slats, it is nonetheless sides on the specific area. I am therefore of the opinion that it is reasonable to accept the CA’s position on this.

Decision

22. On the basis of the evidence before me and having considered all the information submitted in respect of this Regulation 114 appeal, I therefore confirm a CIL charge of £ [REDACTED] ([REDACTED]) as calculated by the Collecting Authority to be appropriate and hereby dismiss this appeal.

[REDACTED] Principal Surveyor MRICS

RICS Registered Valuer

Valuation Office Agency

04 April 2023