

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
DH1 3UW

e-mail: [REDACTED]@voa.gov.uk

Appeal Ref: 1817725

Planning Permission Ref. [REDACTED]

Proposal: Change of use of ground floor from office (Class E) to Use Class C3 (residential) to provide 1 dwelling; erection of two storey extension and associated works

Location: [REDACTED]

Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £ [REDACTED] ([REDACTED]) and hereby dismiss this appeal.

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 [REDACTED] dated [REDACTED];
 - d) CIL Appeal form dated [REDACTED], including appendices;
 - e) Representations from CA dated [REDACTED]; and
 - f) Appellant comments on CA representations.

2. Planning permission was granted under application no [REDACTED] on [REDACTED] for 'Change of use of ground floor from office (Class E) to Use Class C3 (residential) to provide 1 dwelling; erection of two storey extension and associated works.

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 zone A rate of £[REDACTED]m² plus indexation.

4. The Appellant requested a review under Regulation 113 on [REDACTED]. The CA responded on [REDACTED], stating that having completed their review they accepted that the existing office floorspace which was to be converted to residential floorspace qualified as an 'in-use' and should therefore be taken into account within the calculation of the chargeable amount. The CA set out the revised charge at £[REDACTED] and confirmed that they had remeasured the GIA of the proposed development to arrive at their chargeable area of [REDACTED] sqm.

5. On [REDACTED], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability was incorrect as the chargeable area on which had been calculated was incorrect and should be [REDACTED]sqm and not [REDACTED] sqm as proposed by the CA.

6. The Appellant's grounds of appeal can be summarised as follows:
 - a) They believe that the calculation of the chargeable area is incorrect at [REDACTED]sqm and that the proposed development is only [REDACTED]sqm larger than the existing footprint. In addition I understand that they are maintaining that the area of the original external stair case of [REDACTED]sqm should offset giving a net chargeable area of [REDACTED]sqm.

7. The CA submitted their representations in their response dated [REDACTED] and can be summarised as follows:
 - a) They consider that the external stairwell to be demolished should not be included within the GIA calculation of the existing floor area and not be used to offset the chargeable area.

- b) They contend that the calculations of area of the proposed scheme by the appellants are flawed with examples of deviations from the RICS Code of measuring practice.

GIA/Chargeable Development

8. 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.”
9. Regulation 9(1) defines the chargeable development as the development for which planning permission is granted.
10. 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.” 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. The right of the appellants to make a claim to the CA for residential extension exemption or self-build exemption is not affected by the decision of this appeal and I am not able to consider these matters within my decision.
12. In considering the matter I have reviewed all the information supplied whilst focusing on the accepted basis of calculation of the chargeable area as set out above. The CA have measured the area of the proposed development to be [REDACTED]sqm, which they advise excludes the first floor landing. I have check measured the area of the proposed development shown on the approved plans provided to me and it would appear that the CA has included the new porch area on the north east elevation to arrive at this total. It also includes the new internal staircase at ground and first floor levels as well as the converted ground floor, but not the first floor landing.
13. Approved plans show that the area of the existing development is the same as the proposed development, aside from the internal staircase at ground and first floors and the porches. The CA have calculated the area of the existing development for offset purposes to be [REDACTED]sqm which comprises the existing ground floor only. I have checked measured and agree with this offset. I therefore confirm a net chargeable area of [REDACTED]sq m.
14. The additional floor area in relation to the additional ground and first floor internal staircase is clearly in excess of [REDACTED]sqm claimed by the appellant. It would appear that the appellant may have offset an existing external staircase which does not qualify as GIA and not accounted for former external walls now included within the GIA. It would also appear that the appellant has not included the new porches which I conclude should be part of the GIA of the new development.
15. On the basis of the evidence before me, I determine that the Community Infrastructure Levy (CIL) payable in this case should be £ [REDACTED] ([REDACTED])

[REDACTED] MRICS
Valuation Office Agency
9th September 2023