

Appeal Decision

by [REDACTED] 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

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

Appeal Ref: 1829414

Planning Permission Ref. [REDACTED]

Proposal: Single storey rear and side extension with roof extension to accommodate habitable accommodation in the loft space (part-retrospective)

Location: [REDACTED]

Decision

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

Reasons

1. I have considered all of the submissions made by [REDACTED] (the Appellant) and by [REDACTED], 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 [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 received [REDACTED], including appendices; and
 - e) Representations from CA dated [REDACTED].
2. Planning permission was granted under application no [REDACTED] ('the [REDACTED] permission') on [REDACTED] for "*Single storey rear and side extension with roof extension to accommodate habitable accommodation in the loft space (part-retrospective).*" The CA state that this description was amended from the original description to add the rear extension. The original proposed description had been "*Single storey side extension with roof extension to accommodate loft conversion.*"
3. A previous application was submitted under ref [REDACTED] ('the [REDACTED] application') for "*Prior Approval notification for a single storey rear extension measuring 8 metres in depth beyond the rear wall of the original dwelling house measuring a maximum height of 4 metres and a height to the eaves of 2.85 metres (As shown on plans: Location Plan, [REDACTED] received [REDACTED])*" On [REDACTED], a decision was issued stating that prior approval was not required.
4. The CA issued a CIL liability notice on [REDACTED] in the sum of £[REDACTED]. This was calculated on a net chargeable area of [REDACTED]m² at the '[REDACTED]' rate of £[REDACTED]/m² plus indexation. The net chargeable area was based on a gross chargeable area of [REDACTED]m² less existing space of [REDACTED]m² to be demolished and [REDACTED]m² to be retained.
5. The CA provided a review under Regulation 113 on [REDACTED]. They found that the chargeable amount within the liability notice was correct.
6. On [REDACTED], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability should be "around £[REDACTED]".
7. The Appellant's grounds of appeal can be summarised as follows:
 - a) The single storey rear extension should not be included within the CIL charge as this was approved under prior notification. Work had started before submission of the second application for the side and loft extension.
8. The CA has submitted representations that can be summarised as follows:
 - a) The rear extension was at the very early stages of construction when the planning officer visited the site in [REDACTED]. It was agreed with the appellant that this extension should be part of the new application and not prior approval.
 - b) As the rear extension forms part of the chargeable development, it is liable to CIL charge and therefore the liability notice is correct to include this area.

9. The CIL Regulations Part 5 Chargeable Amount, Schedule 1 defines how to calculate the chargeable amount. This states that we must establish “the gross internal area of the chargeable development.”
10. Regulation 9(1) defines the chargeable development as the development for which planning permission is granted.
11. The appellants maintain that the rear extension should not be included within the chargeable development as it was permitted under permitted development rights (as confirmed in the [REDACTED] application). However, the CA state that as the rear extension was not completed when the [REDACTED] permission was submitted, this permission was amended to include the rear extension. It therefore forms part of the chargeable development and should be chargeable.
12. The planning decision notice shows that the approved plans are “[REDACTED] and location plan received [REDACTED] and [REDACTED] and [REDACTED] received [REDACTED].” The appellant has provided two sets of plans as follows:
 - 1) [REDACTED] Drawing no [REDACTED], dated [REDACTED] shows the “existing” floor and roof plan and includes a rear extension.
 - 2) [REDACTED] Drawing no [REDACTED], dated [REDACTED] shows the “existing” elevations including a rear extension matching that in [REDACTED].
 - 3) [REDACTED] Drawing no [REDACTED], dated [REDACTED] shows the “proposed” floor plans including the rear extension as in [REDACTED] and an additional side extension and first floor space.
 - 4) [REDACTED] Drawing no [REDACTED], dated [REDACTED] shows the “proposed” elevations which appear to match the floor plans ref [REDACTED] Drawing no 03.
 - 5) [REDACTED] Drawing no [REDACTED], dated [REDACTED] shows the “existing” floor plan and shows a different rear extension, which I assume to be an area now demolished.
 - 6) [REDACTED] Drawing no [REDACTED], dated [REDACTED] shows the “existing” elevations, including a rear extension matching that in [REDACTED].
13. The CA have not provided plans but have provided an email dated [REDACTED] from [REDACTED], Planning Officer to the applicants stating “*This rear extension scheme is shown on the plans as existing however I have conducted a site visit and noted the structure is still in the early stages of construction. For it to be considered existing, it would need to be completed. Therefore, please can the existing plans be revised to show the application site before the rear extension build. We will still take the prior approval into consideration for this application.*”
14. The chargeable development is the development as described within the [REDACTED] permission and shown on the plans. This includes a rear and side extension, as well as additional accommodation in the loft space. Although the [REDACTED] application confirmed that the rear extension could be constructed under permitted development, I can only have regard to what is included in the [REDACTED] permission. Therefore, I consider that the chargeable development does include this rear extension.
15. There appears to be no dispute over the Gross Internal Area or the Net Chargeable Area. I have therefore assumed that the figures used by the CA are accepted as correct.
16. On the basis of the evidence before me, I determine that the Community Infrastructure Levy (CIL) charge of £[REDACTED] ([REDACTED]) is not excessive and this case should be dismissed.

[REDACTED] BSc (Hons) MRICS
Valuation Office Agency
18 October 2023