# 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: 1851539**

**Planning Permission Ref.** [redacted]

**Proposal: Erection of farm managers dwelling and separate herdsman accommodation (both agriculturally tied), with associated access and parking**

**Location:** [redacted]

---

### Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £ [redacted] ([redacted]).

## Reasons

1. I have considered all of the submissions made by [redacted] , on behalf of [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 dated [redacted] , including appendices;

    e) Representations from CA dated [redacted] ; and

    f) Appellant comments on CA representations, dated [redacted].

2. Planning permission was granted under application no [redacted] on [redacted] for *'Erection of farm managers dwelling and separate herdsman accommodation (both agriculturally tied), with associated access and parking.'*

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 'Zone 4 – Rest of the Borough' rate of £[redacted]/m² plus indexation.

4. The Appellant requested a review under Regulation 113 on [redacted]. The CA responded on ,[redacted] stating that that the chargeable amount was correct.

5. On [redacted], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability should be [redacted].

6. The Appellant's grounds of appeal can be summarised as follows:

    a) The charging schedule sets a charge of zero for single dwellings. The development forms a single dwelling with ancillary herdsman accommodation. Therefore, it should be charged at nil.

7. The CA has submitted representations that can be summarised as follows:

    a) The herdsman's accommodation constitutes a separate dwelling to the farm managers dwelling and therefore the single dwelling rate should not apply.

8. The CIL Charging schedule was implemented from . [redacted] It sets a charge rate of £[redacted] /m² for "single dwellings" or £[redacted]/m² for residential properties in Zone 4.

9. The appellant considers that the subject development comprises a single dwelling, whereas the CA consider it to comprise two dwellings. The dispute therefore centres around the definition of a single dwelling.

10. The appellants argue that the farm managers dwelling is a single dwelling with separate garage and ancillary herdsman accommodation above the garage. The herdsman accommodation is physically part of the farm managers dwelling, sitting above the garage, and can only be used ancillary to the farm managers dwelling. They consider that this is similar to an annexe as it cannot exist independently to the farm managers dwelling and that it would require planning permission for change of use to be used as a separate dwelling.

11. The appellants refer to the following case law, which they say supports their view that the herdsman accommodation is ancillary:

    - Harrods Ltd v Secretary of State of the Environment, Transport and the Regions [2002] held that for a use to be considered "ordinarily incidental" or ancillary to the primary use, it must not substantially alter the primary use of the planning unit.

    - Main v Secretary of State of the Environment, Transport and the Regions [1998] held that a use must be "part and parcel" of the main use to be considered ancillary.

    - R v Harfield (Gordon) [1993] highlighted that ancillary uses are generally protected as long as they remain genuinely subsidiary to the main permitted use.

12. The appellant also refers to case law regarding the definition of a single dwelling as follows:

    - Investment and Securities Trust Ltd v Revenue and Customs Commissioners discussed "single dwelling interest" in the context of the Finance Act 2013. It stated that a single dwelling can include land occupied or intended to be occupied with the dwelling such as garden or grounds, including any building or structures on the land.

    - Catchpole v Revenue and Customs Commissioners considered the distinction between building and dwelling and noted that a dwelling might consist of two buildings if planned to be occupied as a composite whole.

13. In the appellants comments, they refer to further case law around the interpretation of planning permission.

14. The CA argue that the herdsman accommodation contains all the necessary facilities to enable it to be occupied in a self-contained manner and therefore it comprises a separate dwelling.

15. With regards to the Catchpole case, they comment that the ancillary accommodation included bedrooms and a shower but no kitchen or living room and therefore it was not capable of occupation separate from the main house. By contrast, the herdsman accommodation can be occupied entirely separately and although the occupier must be connected to the agricultural business, there is no requirement that the occupiers of each property be one family unit.

16. The appellants accept that the herdsman accommodation can be occupied separately but consider that in the context of Condition 4 of the planning permission, this occupation still forms a composite whole with the farm managers dwelling. Therefore, together they form a separate dwelling for the purposes of CIL and a single dwelling for the purposes of the charging schedule.

17. The CA disagree that "single dwelling" is equivalent to "separate dwelling." They state that the evidence behind the charging schedule shows that the rate adopted for single dwellings reflects the higher costs that are usually incurred in single dwelling developments.

Definition of a single dwelling

18. There is no definition of "single dwelling" within the charging schedule.

19. The dictionary definition of dwelling is "a house or place to live in" or "a place where someone lives." The definition of single is "only one." On this basis, the subject development would comprise two dwellings as there are two "places to live".

20. The CIL Regulations define a dwelling as *"a building or part of a building occupied or intended to be occupied as a separate dwelling."*

21. The planning permission approves a "*farm managers dwelling and separate herdsman accommodation."* The use of the herdsman accommodation is restricted within the planning decision notice under Condition 4 as follows:

    *"The herdsman accommodation shall be only for purposes ancillary to the approved dwelling and shall not be used for any other residential, business, commercial or industrial purposes whatsoever."*

22. In my opinion, the planning restriction at condition 4 prevents the herdsman accommodation from being occupied as a separate dwelling and therefore it would not meet the definition of "dwelling" under the CIL Regulations. However, the definition that we need to consider is that in the CIL charging schedule.

23. I accept the appellant's contentions that a single dwelling does not need to comprise a single building. It is reasonable to treat the farm managers dwelling and the garage as a single dwelling. However, the herdsman's accommodation comprises separate, self-contained accommodation that will be occupied by a different family unit to the farm managers dwelling. It is not ancillary to the farm managers dwelling in any physical sense.

24. The appellants argue that the herdsman accommodation is ancillary because the planning permission restricts use to "*purposes ancillary to the approved dwelling*." Whilst I accept there is a legal relationship between the two units, I do not accept that this extends to combining the two into a single dwelling. In my opinion, the planning consent grants permission for a farm managers dwelling and an ancillary herdsman's dwelling. Therefore, there are two dwellings.

25. In my opinion, the "single dwelling" rate does not apply as there are two dwellings consented, regardless of the restrictions on use. I am therefore of the opinion that the CIL Liability Notice issued by the CA on [redacted] is correct.

26. 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
6 November 2024