

# Appeal Decision

by [REDACTED] BA Hons, PG Dip Surv, MRICS

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

Valuation Office Agency  
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**Appeal Ref: 1831923**

**Planning Permission Ref. [REDACTED]**

**Proposal: Conversion and alteration of the former school into 5 dwellings and create vehicle access and parking**

**Location: [REDACTED]**

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## Decision

On the basis of the evidence before me, I determine the apportioned sum of Community Infrastructure Levy (CIL) payable by the Appellant to be, £[REDACTED] ([REDACTED]).

## Reasons

1. I have considered all the submissions made by [REDACTED] (the Appellant) 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] and Demand Notice dated [REDACTED].
  - d) CIL Appeal form dated [REDACTED] submitted by the Appellant together with documents and correspondence attached thereto.

2. An Interested Party (IP), [REDACTED] has been identified within the Appellant's appeal form. The Valuation Office wrote to [REDACTED] on [REDACTED], advising of this appeal and providing copies of the Appellant's appeal form and representations. [REDACTED] was invited to provide any representations in respect of the appeal by the [REDACTED]. The Valuation Office has not received any representations from [REDACTED].
3. In accordance with Regulation 112 (3) b), the Collecting Authority, [REDACTED] (CA) is not an interested party to a Regulation 115 Apportionment of liability appeal and consequently they have not been invited to make representations, but their calculations and correspondence as provided to the Appellant have been considered.
4. Planning permission was granted under application [REDACTED] on [REDACTED] for; "*the conversion and alteration of the former school into 5 dwellings and create vehicle access and parking.*" The parcel of land owned by the Appellant (Title [REDACTED]) falls within the larger parcel of land this permission relates to.
5. I understand that the appellant acquired the subject land (Title [REDACTED]) in [REDACTED] for £[REDACTED]. From the submissions provided, I note the subject site has an area of approximately [REDACTED] square metres (sq. m). The total area of the land that forms the chargeable development is said to be [REDACTED] sq. m. The subject land was originally the playground that served the former infant school and was used as a contractor's compound whilst the conversion was undertaken.
6. The CA issued a CIL liability notice on [REDACTED] at a sum of £[REDACTED]. This was calculated on a chargeable area of [REDACTED] sq. m at £[REDACTED] per sq. m plus indexation. There does not appear to be any dispute over the rates adopted here. The CA apportioned the Appellant's liability at [REDACTED]% thus, the Appellant's CIL liability was £[REDACTED]. The CA also added a surcharge for failure to submit a commencement notice and this surcharge has also been apportioned at the same percentage.
7. Email correspondence between the CA and Appellant dated [REDACTED] details the Appellant's concerns about the apportionment and illustrates the CA outlined the possible routes of appeal [REDACTED]. This was followed by the Appellant submitting a Regulation 115 (apportionment of liability) appeal to the Valuation Office on the [REDACTED] contending that the Appellant should only be liable for [REDACTED]% of the liability (£[REDACTED]).
8. The Appellant's grounds of appeal can be summarised as follows:
  - a) The value of the Appellant's land (Title number [REDACTED]) has been overstated by the CA and they have not provided any comparables to evidence how they arrived at a value of £[REDACTED] for the land in question.
  - b) The CA has undervalued the five residential units that have been converted from the former school buildings.

- c) The Appellant is of the view the correct apportionment should be [REDACTED]%. This is based on a valuation report produced by a local chartered surveyor in [REDACTED] that valued the completed development at £[REDACTED]. The Appellant has then indexed this figure up to £[REDACTED] to account for the “Covid Boom”. The Appellant has also provided valuation reports dated [REDACTED] and [REDACTED] for the parcel of land she owns. These value the land at £[REDACTED] and £[REDACTED] respectively.

9. Regulation 34 deals with apportionment of liability and states:

- (2) *The owner (O) of a material interest in the relevant land is liable to pay an amount of CIL calculated by applying the following formula—*

*where:-*

$$\frac{V_o \times A}{V}$$

*VO = the value of the material interest owned by O.*

*V = an amount equal to the aggregate of the values of each material interest in the relevant land; and*

*A = the chargeable amount payable in respect of the chargeable development.*

- (3) *But where O is granted relief in respect of the chargeable development, O is liable to pay an amount of CIL equal to the amount calculated in accordance with paragraph (2) less the amount of relief granted to O.*

- (4) *For the purposes of paragraph (2)—*

*the value of a material interest is the price that it might reasonably be expected to obtain if sold on the open market on the day the apportionment takes place; and*

*the valuation shall assume that the chargeable development has been completed on the day before the apportionment takes place.*

- (5) *The price referred to in paragraph (4) shall not be assumed to be reduced on the ground that the whole of the relevant land is to be placed on the open market at the same time.”*

10. I am therefore required to determine the value of each material interest, assuming that the development had been completed as at [REDACTED]

11. Looking first at the value of the residential units, on the assumption that the chargeable development has been completed, I have considered both the approaches of the Appellant and the CA.
12. The CA have calculated their apportionment by looking at the average values of 2 bed flats as well as 1, 2 and 3 bed semi-detached houses that were listed as having sold on Rightmove in [REDACTED] (the date of apportionment) in and around the [REDACTED] locale. It is my understanding the CA have valued the units that were approved in Permission [REDACTED] and the CA have assumed the units were completed in accordance with the approved plans.
13. As stated above, the Appellant has relied upon a surveyor's report from [REDACTED] that they have indexed up to arrive at values as at [REDACTED]. The surveyor described the completed residential units as outlined below:

Unit 1 - 3 bedroom accommodation over four floors.

Unit 2 - 3 bedroom unit over two storeys.

Unit 3 - 3 bedroom unit over two storeys.

Unit 4 - 1 bedroom unit.

Unit 5 - 3 bedroom flat on top floor.

It seems as though the units at the time of the Surveyor's report had not been built in accordance with the approved plans that determine the chargeable development for CIL purposes with some variances being evident.

14. In line with Regulation 34 above, we are required to assume the chargeable development has been completed. Regulation 9 (1) defines chargeable development as; "*the development for which planning permission is granted.*" I therefore concur with the CA's adoption of the units detailed within the planning permission rather than those that have been built. I also consider the sales evidence relied upon by the CA to have the advantage of being based on similar properties having been sold in the area contemporaneous to the valuation date. The report relied upon by the Appellant, values properties that were not approved under the chargeable development and is somewhat historic providing values as at [REDACTED]. I find the adjustment to [REDACTED] values to be based on hearsay rather than actual sales evidence and am of the view the total development value of the five residential units at £[REDACTED] adopted by the CA is reasonable.
15. In terms of the value of parcel [REDACTED] owned by the Appellant, I am more convinced that the £[REDACTED] put forward by the Appellant is better evidenced than the £[REDACTED] adopted by the CA. I have considered the valuation reports dated [REDACTED] and [REDACTED] submitted by the Appellant and in particular I have had regard to the comments as to the planning situation. It is clear from the planning permission and the approved plans that the subject land is required for hard landscaping within the chargeable development and its retention was regarded as important to the planners. Whilst the comparables provided in the [REDACTED] report support a plot value of £[REDACTED], this is on the assumption planning permission and access had been secured. At our valuation date the

subject site did not have planning permission for residential development and was seen as necessary landscaping to the chargeable development. Therefore, despite the marketing of the plot at £[REDACTED], I concur with the Appellant it is unlikely that this value would be achieved until planning permission was secured. I envisage, to reflect the planning and access issues that needed to be overcome, it is more likely a purchaser would reduce their bid to £[REDACTED] as the Appellant contends.

16. In accordance with Regulation 34, I apportion the CIL liability of £[REDACTED] as follows:

$$\frac{V_O \times A}{V}$$

where—

*V<sub>O</sub>* = the value of the material interest owned by O;

*V* = an amount equal to the aggregate of the values of each material interest in the relevant land; and

*A* = the chargeable amount payable in respect of the chargeable development.

*V<sub>O</sub>* = £[REDACTED]

*V* = £[REDACTED] (£[REDACTED] + £[REDACTED])

*A* = £[REDACTED]

Appellant's apportioned CIL Liability = £[REDACTED]

17. On the basis of the evidence before me, I determine that the Community Infrastructure Levy (CIL) apportionment in respect of Title [REDACTED] to be £[REDACTED] ([REDACTED]).

[REDACTED] BA Hons, PG Dip Surv, MRICS  
RICS Registered Valuer  
Valuation Office Agency

Date 29 November 2023