

# Appeal Decision

by [REDACTED] MRICS MSc

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

Valuation Office Agency  
Wycliffe House  
Green Lane  
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**Appeal Ref: 1857932**

**Planning Permission Ref. [REDACTED]**

**Proposal: Conversion of barns into 3 No. holiday lets at [REDACTED], [REDACTED]**

**Location: [REDACTED]**

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## Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £NIL

## 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 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 'Conversion of barns into 3 No. holiday lets at [REDACTED], [REDACTED], [REDACTED]'. From the representations provided and details on the planning application, I understand that the buildings to be converted form part of the barns associated to the original farm house.
3. The CA issued a CIL liability notice on [REDACTED] in the sum of £[REDACTED]. This was calculated on a chargeable area of [REDACTED]m<sup>2</sup> at the rate of £[REDACTED]m<sup>2</sup> plus indexation at a rate of [REDACTED].

4. The Appellant requested a review under Regulation 113 on [REDACTED]. The CA responded on [REDACTED], stating that they did not believe the decision was made incorrectly and that the historic barns did not meet the lawful use, nor has there ever been an application to change the lawful use of the barns.
5. On [REDACTED] the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability should be £NIL.
6. The Appellant's grounds of appeal can be summarised as follows:
  - a) The barns have been used as domestic storage since the farm ceased operating as a farm in the late [REDACTED]'s/early [REDACTED]
  - b) The farm has gone through multiple owners since and has never been used other than domestic storage.
7. The CA has submitted representations that can be summarised as follows:
  - a) The CA are of the opinion that the lawful use of the existing buildings is Agricultural. The planning officer accepts that the buildings are no longer in agricultural use but consider they could be brought back into agricultural use.
  - b) As the barns have been used for domestic use, they do not meet the criteria of being in lawful use for a continuous period of at least six months within the period of three years ending on the day of planning permission being granted. Therefore, the existing buildings cannot be offset against the CIL charge to CIL.
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. As the original farm ceased operating in the late [REDACTED]/early [REDACTED], the original farm has been split to provide multiple private residential properties. The subject property and associated buildings have been used solely for residential use since.
10. The CA have accepted that during the relevant period, the buildings have been used for domestic storage as per the email dated [REDACTED], which was sent to the Appellant. I have therefore focussed my decision on whether the lawful use of the buildings was residential or agricultural.
11. I understand that the latest planning permission for the buildings was for agricultural use, ancillary to the former house. Although no further evidence has been provided to support the use of the buildings, it is a reasonable assumption to make along with the exchange of representations between the appellant and CA that the buildings have not been used for agricultural use for a long period of time and have not been fit for this purpose.
12. The Town and Country Planning Act 1990 s.191 allows a person to apply to the local planning authority for a certificate of lawfulness. Under the Act, uses are considered lawful if no enforcement action may be taken against them. The Levelling Up and Regeneration Act 2023 s.115 amended the time limits within which local planning authorities can take planning enforcement action to 10 years for most types of development.

13. I consider that the property would have been granted a certificate of lawful use if it had applied for one as it has been over 10 years' since the use has been changed. I therefore conclude that the lawful use of the buildings were as domestic. As there is no dispute over whether the buildings were actually being used, I conclude that the buildings were in lawful use and can be offset against the CIL charge.

14. On the basis of the evidence before me, I determine that the Community Infrastructure Levy (CIL) payable in this case should be £NIL

■■■■ MRICS MSc MRICS  
RICS Registered Valuer  
Valuation Office Agency  
17 February 2025