# **Appeal Decision**

## By 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

Durham DH1 3UW
e-mail: @voa.gov.uk

Appeal Ref: 1832607

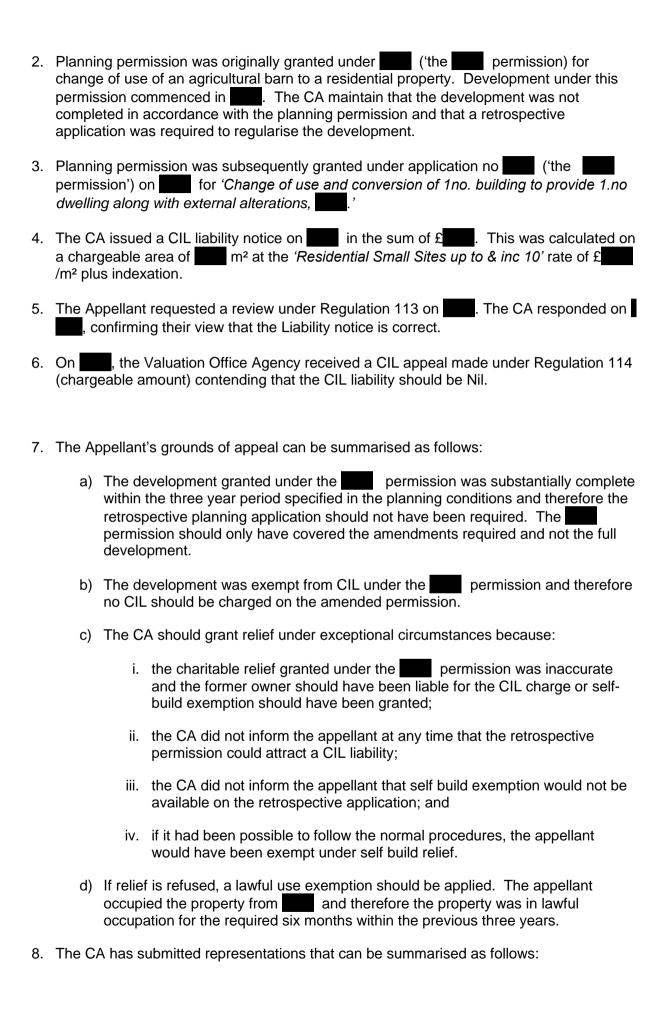
Planning Permission Ref. Proposal: Change of use and conversion of 1no. building to provide 1.no dwelling along with external alterations, Location:

#### **Decision**

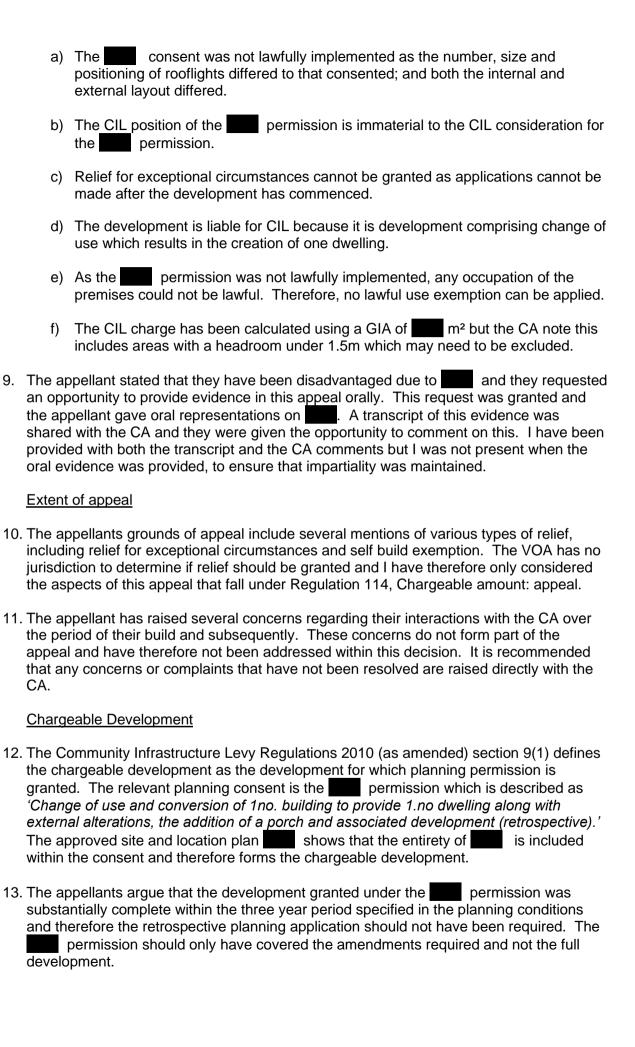
I do not consider the Community Infrastructure Levy (CIL) charge of £ ( ) to be excessive and I therefore dismiss this appeal.

#### Reasons

- I have considered all of the submissions made by on behalf of the Appellant) and by 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 dated the information is given by the considered all of the considered in the following documents:
  - b) Approved planning consent drawings, as referenced in planning decision notice;
  - c) CIL Liability Notice dated ;
  - d) CIL Appeal form dated , including appendices;
  - e) Representations from CA dated
  - f) Appellant comments on CA representations, dated ;
  - g) Transcript of Appellants verbal representations, dated ; and
  - h) CA comments on transcript, dated



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14. The CIL regulations are clear that the chargeable development is the development for which planning permission is granted. Therefore, regardless of any dispute over the implementation of the consent, I am of the opinion that the development consented within the permission comprises the chargeable development.

#### **GIA**

- 15. 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."
- 16. 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.
- 17. The CA have adopted a GIA of m<sup>2</sup> but note in their representations "The council recognise that this figure may change slightly to reflect an exclusion of areas with a headroom of less than 1.5m (areas excluded from the Gross Internal Area as set out in the RICS Code of Measuring Practice May 2015), more accurately."
- 18. The appellant has not provided a GIA but has referred to drawing which they state provides details of the floorspace.
- 19. I do not agree that areas with a headroom of under 1.5m should be excluded from the GIA. (These areas are excluded from Net Internal Area within the Code of Measuring Practice, but not from GIA). I am therefore content that the GIA adopted by the CA is not excessive.

### Lawful use

- 20. The appellant has stated that if relief is refused, a lawful use exemption should apply. I am unable to consider any application for relief and therefore I have considered the lawful use grounds.
- 21. 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."
- 22. "In-use building" is defined in the Regulations as a relevant building that contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development.
- 23. "Relevant building" means a building which is situated on the "relevant land" on the day planning permission first permits the chargeable development. "Relevant land" is "the land to which the planning permission relates" or where planning permission is granted which expressly permits development to be implemented in phases, "the land to which the phase relates."
- 24. The permission is for a change of use to an agricultural barn. The original barn can be considered as a relevant building, which was situated on the relevant land. The question therefore falls to whether the building was in lawful use for the relevant period.

