Appeal Decision

by ```redacted``` **MRICS**

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

Valuation Office Agency (DVS)
Wycliffe House
Green Lane
Durham
DH1 3UW

e-mail: ```redacted``` @voa.gov.uk.

Appeal Ref: 1871723

Address: ```redacted```

Proposed Development: Alterations including erection of dormer extension to main rear roof with increase in ridge height of : ```redacted```mm, extension above part of two storey back addition and formation of roof terrace above two-storey back addition in connection with creation of a studio flat at second floor level. Bin storage within front forecourt.

Planning Permission details: Granted by ```redacted``` Council on ```redacted```, under reference ```redacted``` .

Decision

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

Reasons

Background

1. I have considered all the submissions made by the appellant (APP), ```redacted```, and the submissions made by the Collecting Authority (CA), ```redacted```.

2. In particular, I have considered the information and opinions presented in the following documents:-

    a) Appeal Form
    b) Grounds of Appeal
    c) Original planning application including a full set of application plans and documents
    d) CA's Decision Notice granting planning permission dated ```redacted```
    e) Liability Notice from the collecting authority (```redacted```) dated```redacted```
    f) Regulation 113 Review Request (dated ```redacted```) and review response (dated ```redacted```) Planning permission was granted for the proposed development on ```redacted``` .

Grounds of Appeal

3. Planning permission was granted for the development on ```redacted```, under reference ```redacted``` . The approved planning permission was:-

    Alterations including erection of dormer extension to main rear roof with increase in ridge height of : ```redacted```mm, extension above part of two storey back addition and formation of roof terrace above two-storey back addition in connection with creation of a studio flat at second floor level. Bin storage within front forecourt.

4. The CA issued a CIL Liability Notice dated ```redacted``` in the sum of £```redacted```. This was based on a net chargeable area of ```redacted``` m^2 @ £```redacted``` per m^2 under ```redacted``` and @ £```redacted``` per m^2 under the ```redacted``` .

5. The APP requested a review of this charge under Regulation 113 of the CIL Regulations 2010 (as amended) on ```redacted``` and the CA issued their response dated ```redacted``` confirming the amount as set out in the original notice.

6. On , ```redacted``` the Valuation Office Agency received a CIL Appeal made under Regulation 114 (chargeable amount) contending that the chargeable amount had been incorrectly calculated as a consequence of the miscalculation of the chargeable area. The APP contends that the CIL payable should be £0 based on no net chargeable area being created by the approval.

7. The APP has set out their Grounds of Appeal disagreeing with the CA's calculation of the chargeable amount because they opine there is: a) an overstatement of Gross Internal Area (GIA), b) the actual floor area lost from Flat B is greater than declared and c) the existing loft space should qualify for deduction.

8. The CA submitted representations dated ```redacted```, with four supporting appendices. The CA opines they have assessed the Gross Internal Area in line with the RICS Code of Measuring Practice and CIL Regulations. They consider they have addressed the APP's points regarding first floor and loft spaces, confirming credit for retained residential floorspace where appropriate. In terms of the loft area, they opine insufficient evidence of permanent access, has been provided and consequently cannot be credited.

9. The APP responded to the CA's representation dated ```redacted```. The APP continued to dispute how the CA's GIA included low headroom areas (1.5m down to 0m), the inclusion of floor area lost from the existing GIA and provided additional evidence by means of a photograph to demonstrate the "fixed, permanent access" to the loft space supporting the inclusion of this GIA as part of the "in use building".

10. In summary, I consider the issues before me are in relation to the calculation of the GIA of the chargeable area; specifically the net internal area of ```redacted``` sqm calculated by the CA, the lost residential floorspace at first floor level and the treatment of the existing loft space to the house at second floor level.

11. There is no dispute around the charging rate or indexation adopted.

Approved Development in Dispute

12. The dispute between the parties relates to Flat B, ```redacted``` located in ```redacted``` . The subject consists of a two-storey end of terrace property located on ```redacted``` ; just off the ```redacted``` (```redacted```).

13. The CIL appeal solely relates to the first floor flat and upper floorspace. Similar residential properties surround the site. The property backs onto the ```redacted``` and the overground line forming part of the National Rail network.

Decision

14. For ease I will deal with each issue in turn.

   a) The net internal calculation by the CA

15. Schedule 1 (6). of the 2019 Regulations "KR" allows for the deduction of floorspace of certain existing buildings from the gross internal area (GIA) of the chargeable development, to arrive at a net chargeable area upon which the CIL liability is based. The deductible floorspace of buildings that are to be retained includes;

i. retained parts of 'in-use buildings', and

ii. for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development.

In this particular case "KR (i)" is the relevant part to consider.

16. The relevant part of the regulations can be found under Schedule 1 Part 1 1. (6) of the CIL Regulations 2010 (as amended), states that "in-use' buildings" can be taken into account within the calculation of the chargeable amount. Schedule 1 (10) (i) defines an "in-use building" as a building which:

"in-use building" means a building which—

(i) is a relevant building, and

(ii) 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.

"relevant building" means a building which is situated on the relevant land on the day planning permission first permits the chargeable development;

Within the Regulations, Part 1 Introductory – Interpretation 2. (1) defines "relevant land" as —

…in all other cases, the land to which the planning permission relates.

17. Gross Internal Area (GIA) is not defined within the Regulations. The VOA use the definition of GIA contained within the RICS Code of Measuring Practice, 6th Edition (May 2015) when considering all CIL appeals.

18. The measurements adopted by the CA have been stated as being in accordance with the Code of Measuring Practice.

19. Under 2.0 Gross Internal Area (GIA) of the Code of Measuring Practice, the GIA is defined as "**The area of a building measured to the internal face of the perimeter walls at each floor level**." There is clear guidance on what is included and excluded from the GIA's calculation.

Including:-

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open-sided balconies walkways and the like
- Structural, raked or stepped floors are to be treated as level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floors areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms and the like
- Projection rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of less than 1.5m
- Pavement vaults
- Garages
- Conservatories

Excluding:-

- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fires
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential property.

20. The APP opines that areas with headroom of less than 1.5m should be excluded in accordance with the Code, however, the only applications when this is relevant is for rating purposes, under APP 6.

21. I agree with the CA concerning this first issue. It is clear from the RICS Code of Measuring Practice that the GIA does include areas with a headroom of less than 1.5m.

b) The lost residential floorspace at first floor level

22. Again, I refer to the RICS Code of Measuring Practice and what is included within the calculation of GIA (see paragraph 19)

23. I agree with the CA concerning the second issue. It is clear from the RICS Code of Measuring Practice that stairwells, entrance halls and corridors of a permanent essential nature, are all stated as being included within the GIA.

c) The treatment of the existing loft space

24. Based upon the definition set out within the RICS Code of Measuring Practice, the CA considers that the void loft space should be excluded in the existing GIA calculation based on the fact there is no permanent access and structural floor.

25. Whereas the APP opines that the loft area is used for existing accommodation (prior to development) demonstrated by the structural floor (recognised by the CA) and, furthermore, access is provided by a fixed, permanent stair structure securely attached to the building fabric and, therefore, should be included within the existing GIA.

26. Having fully reviewed all the documentation and having regard to the RICS guidance, I do not consider that the void in the roof space should be included as part of the existing GIA for the purposes of the calculation of the chargeable area forming "KR (i)". The presence of a permanent staircase is a general acceptance for access to different floor levels. I am of opinion that the loft ladder is not a permanent staircase for reasons that they are not acceptable under the Building Regulations (of which always apply) for any loft conversion that creates a habitable space.

27. In conclusion, on the basis of the evidence before me and having considered the information submitted to me in this case, I am of the opinion that the appellant`s calculation of the GIA does not accord with the RICS Code of Measuring Practice definition and I hereby dismiss their appeal.

```redacted```

```redacted``` MRICS
Principal Surveyor
RICS Registered Valuer
Valuation Office Agency
Date: 4 September 2025