

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: 1870717

Address: ``redacted``

Proposed Development: Alterations to existing barn to form a residential dwelling and erection of an outbuilding to provide garage and studios, together with landscaping and associated works following demolition of existing outbuildings.

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, ``redacted`` (APP), 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) CIL Appeal form dated ``redacted``.
 - b) Grant of Planning Permission ``redacted`` dated ``redacted``, with plans including location, block, ground and first floor plan, alongside an Area Volume Schedule.
 - c) Initial CIL Liability Notice (ref ``redacted``:), dated ``redacted``.
 - d) Relevant CIL Liability Notice (ref: ``redacted``), dated ``redacted``.
 - e) The CA's Regulation 113 Review dated ``redacted``.
 - f) CA's Written Statement including Supporting Evidence dated ``redacted``.

Grounds of Appeal

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

Alterations to existing barn to form a residential dwelling and erection of an outbuilding to provide garage and studios, together with landscaping and associated works following demolition of existing outbuildings.

4. On ``redacted``, the CA issued a Liability Notice (ref: ``redacted``) for a sum of £``redacted``. This was based on a net chargeable area of ``redacted`` m² and a Charging Schedule rate of £``redacted`` per m² (Residential Zone A) with an indexation of ``redacted``.
5. The APP issued a Regulation 113 Review request dated ``redacted``. Following consideration of the evidence submitted by the APP, the CA undertook a review and reissued a CIL Liability Notice (ref: ``redacted``), dated ``redacted`` based on a net chargeable area of ``redacted`` m² and a Charging Schedule rate of £``redacted`` per m² (Residential Zone A) with an indexation of ``redacted``. The revised Liability Notice provided a Total CIL Liability of £``redacted``.
6. This led to the APP submitting this Regulation 114 appeal to the Valuation Office (VO) on the ``redacted``.
7. The APP has set out their Grounds of Appeal disagreeing with the CA's calculation of the chargeable amount because it does not correctly allow for the deduction of existing floorspace which is to be demolished or retained (and converted) as part of the chargeable development. The APP considers the GIA for proposed new space is only an additional ``redacted`` sq. m. thus providing a CIL Charge of £``redacted``.

8. In summary, I consider the issue before me is whether all of the buildings within the Application Boundary subject to this Appeal were “In-use’ buildings.
9. There is no dispute around the charging rate or indexation adopted.

Approved Development in Dispute

10. The dispute between the parties relates to a parcel of land located at “redacted” which lies in the countryside to the “redacted” .
11. The site is in “redacted” and is predominately rural in nature with a small cluster of homes, smallholdings and farm buildings. It is understood the barn and site, prior to purchase by the APP, was previously part of the wider “redacted” properties to the “redacted”.

Decision

12. 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 —

- a) where planning permission is granted for development by way of a general consent, the land identified in the plan submitted to the collecting authority in accordance with regulation 64(4)(a),

- b) where planning permission is granted for development by way of a general consent, and no notice of chargeable development is submitted under regulation 64(2), the land identified in the plan prepared by the collecting authority and served in accordance with regulation 64A(3),
- c) where outline planning permission is granted which expressly permits development to be implemented in phases, the land to which the phase relates, and
- d) in all other cases, the land to which the planning permission relates.

- 13. The APP opines that all of the elements within the Application Boundary comprising the existing barn, annex, horse feeder and outbuilding, should be included within the GIA calculation of the “in-use building”. I have adopted the same reference of each element as the APP to avoid any confusion.
- 14. The CA do not dispute that the “existing barn” and “annex” individually meet the criteria of an “in-use building” as per the Regulations. However, the CA opines no evidence has been provided for the other existing buildings on the site, namely the “horse feeder” and “outbuilding”.
- 15. The CA consider it has not been supplied with sufficient evidence to demonstrate that the “horse feeder” and “outbuilding” have 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 permitted the chargeable development. Schedule 1 Part 1 1.(8) states, “where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish that a relevant building is an in-use building, it may deem it not to be an in-use building.”
- 16. Previously the CA in their Reg 113 review accepted the evidence submitted by the Appellant concerning the “existing barn” and “annex” following the original (now superseded) Liability Notice and Regulation 113 review but did not expand on their reasoning for excluding the “horse feeder” and “outbuilding”.

17. Similarly, the APP's representation lacked specific consideration of this element too and merely stated that, "All other existing buildings on site were in lawful and continuous use within the three years prior to the grant of planning permission and should therefore be eligible for deduction under Regulation 40 of the CIL Regulations 2010 (As Amended)." However, the APP has not provided any further justification or supporting evidence within their representations. Fundamentally, this is what is required to be contemplated for Schedule 1. Part 1 (6) and subsequently (10).

18. I concur with the CA. Based upon the evidence advanced by the APP, I do not find sufficient evidence to support the APP's claim of the "horse feeder" and "outbuilding" being a "in-use building" as per Schedule 1, 10 (i) & (ii) within the Regulations . In arriving at my decision, I must make my determination based upon the submitted facts of the case, determined under the Community Infrastructure Levy Regulations 2010 (as amended).

19. On the basis of the evidence before me, I conclude that the Community Infrastructure Levy (CIL) payable in this case should be £""redacted"" ("redacted") and I hereby dismiss this appeal.

""redacted""

""redacted ""MRICS
Principal Surveyor
RICS Registered Valuer
Valuation Office Agency
Date: 21 August 2025