

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: 1874253

Address: [REDACTED]

Proposed Development: Rebuilding, repairs and conversion of damaged cart shed, oast building and roundel with new ground floor rear extension to form a dwelling, together with a 2 car [REDACTED] with home office in roof space.

Planning Permission details: Granted by [REDACTED] 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 of the submissions made by [REDACTED] on behalf of [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, Officer's Report, Structural Engineer Appraisal, Planning Statement and Design and Access (including Heritage) Statement along with other supporting information submitted for the relevant application;
- c) CIL Liability Notices dated [REDACTED] and [REDACTED];
- d) Regulation 113 Review Request ([REDACTED]) and Response ([REDACTED]);
- e) CIL Appeal form dated [REDACTED], including Grounds of Appeal, supporting Statutory Declarations and photographs and appendices, Measured Survey dated [REDACTED], [REDACTED] Chartered Surveyors;
- f) Representations from CA dated [REDACTED]; and
- g) Appellant's Final Comments on CA representations dated [REDACTED].

Grounds of Appeal

2. Planning permission was granted under Planning Decision reference [REDACTED] dated [REDACTED] for, "Rebuilding, repairs and conversion of damaged cart shed, oast building and roundel with new ground floor rear extension to form a dwelling, together with a 2 car [REDACTED] with home office in roof space."
3. I understand that a CIL liability notice was originally issued [REDACTED] to the incorrect address, then a subsequent CIL Liability Notice was issued dated [REDACTED] for the same amount in the sum of £[REDACTED]. This is stated as being based on a chargeable area of [REDACTED]m² at the '8 Residential Zone D rate'.
4. The Appellant requested a review under Regulation 113 on [REDACTED]. The CA responded on [REDACTED], stating that they consider the CIL charge to be correct.
5. On [REDACTED], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contending that the CIL liability stated by the CA was incorrectly calculated. The Appellant considers the chargeable GIA created by the development is only an additional [REDACTED] sq. m. thus providing a CIL Charge of £[REDACTED].
6. The Appellant's grounds of appeal can be summarised as follows:
 - The CA has adopted the incorrect measurement approach;

- A building was in lawful use and should be offset;
- The covered parking known as the [REDACTED] should be excluded from the chargeable floorspace GIA.

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

Approved Development in Dispute

8. The dispute between the parties relates to [REDACTED], (formerly [REDACTED]); located just outside the village of [REDACTED]. It comprises land on which are located a flint and brick-walled oast roundel and an attached, timber framed and timber clad oast barn.
9. The oast roundel and the immediately adjacent oast barn are the structures directly opposite and north of [REDACTED] (on the opposite side of the access), and to the southwest of the Grade II listed [REDACTED] farmhouse. Given their proximity and relationship to the grade II listed [REDACTED] farmhouse, the oast roundel and oast barn are considered to be curtilage listed.

Decision

10. The core dispute between the parties in this case relates to the interrelated CIL Regulation concepts of 'relevant building' and lawful use in accordance with Schedule 1 Part 1 1. (6) of the CIL Regulations 2010 (as amended). In addition to the correct application of calculating the gross internal area (GIA) for the chargeable development.
11. I will set out this appeal decision dealing with the grounds as listed in order of relevance under paragraph 6.

The correct application for calculating the GIA for the chargeable development

12. The Appellant's representations included a Measured Survey Report produced by [REDACTED] Chartered Surveyors dated [REDACTED]. The Report stated the measurement methodology was taken in accordance with:
- RICS Property Measurement Standards (2nd Edition, May 2024)
 - International Property Measurement Standards (IPMS: Residential).
 - Regulation 40 of the CIL Regulations 2010 (as amended).
13. The CA has stated they have calculated the GIA adopting the RICS Code of Measuring Practice 2015.

14. Gross Internal Area (GIA) is not defined within the Regulations, however, it is stated throughout the Regulations as the basis of measurement to adopt. IPMS is a different measurement approach and does not provide a definition of GIA. The VOA use the definition of GIA contained within the Royal Institution of Chartered Surveyors (RICS) Code of Measuring Practice and the Globally applicable 6th Edition (May 2015) when considering all CIL appeals, as this is the latest official definition of GIA.
15. I therefore, conclude that the measurements included in the [REDACTED] report cannot be adopted for CIL purposes, as they do not align with the requirements of the Regulations. The CA's basis of measurement is correct and I have adopted their measurements of GIA.

Whether the existing buildings were “In-use’ buildings

16. 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.

17. Further clarification under Schedule 1 (10) is provided. An “**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.

Meaning of “chargeable development” is set out in Regulation 9.—(1) **The chargeable development is the development for which planning permission is granted.**

18. I consider a brief summary of the history concerning the purchase of the land and background to the planning is beneficial to set out in this decision for context.
19. From the representations provided by the Appellant, it is understood the Appellant exchanged contracts to purchase the site in [REDACTED]. A prior application was submitted in [REDACTED] but later withdrawn. It is apparent within both representations, and important to note in this case, there was a significant time lag between the planning application being registered ([REDACTED]) and approved ([REDACTED]). It is understood the sale eventually completed in [REDACTED].
20. Pending completion of the barn and associated land (about [REDACTED] acres), the Appellant was permitted by the owner at the time to use the subject barn for storage of agricultural equipment to maintain some land (about [REDACTED] acres) on behalf of a neighbour.
21. Once the sale of the oast barn and land completed in [REDACTED], the Appellant opines to have planted up his land as an orchard with trees comprising a mix of apples and pears and, therefore, the use of the oast barn for agricultural purposes continued to store machinery and materials.
22. From the information provided within the Appellant’s representations, prior to owning the barn, the Appellant opines the barn was subject to some damage following it being struck by lightning, resulting in fire damage. Temporary stabilisation works were undertaken in [REDACTED] which allowed the barn to be used for storing agricultural equipment to maintain the neighbour’s land.
23. Evidence in the form of statutory declarations from the Appellant and others was provided to demonstrate use of the barn for agricultural purposes prior to the Appellant’s ownership commencing. Each statutory declaration can be summarised as follows:

[REDACTED] (Appellant) – Sets out the purchase and planning history, the reasons behind the repair works being undertaken, confirming the usage of the building with supporting details.

[REDACTED] – An immediate neighbour who confirmed the Appellant’s assistance with maintaining her land, maintaining the Appellant’s own land, the repair work undertaken on the subject barn and the storage of tools and associated paraphernalia, with supporting details.

Following the CA's representations, a further statutory declaration from [REDACTED] provided additional details and clarification of her observations as the immediate neighbour.

[REDACTED] – The roofer who undertook the repair work at the subject barn, confirmed what repair work was required and the use of the barn for the storage of agricultural machinery at the times he visited the property.

[REDACTED] – Father of [REDACTED] – Confirming the use of the barn to store agricultural machinery during frequent visits to the neighbouring property since [REDACTED].

24. The CA opines the information contained within the planning application contradicts the information the Appellant provides to justify the requirements of the 'in-use building' stating it was redundant and disused. However, the Appellant states because there was a considerable time lag in receiving a decision (3 years), they had no choice but to use the barn to store machinery to assist their neighbour in maintaining her land and the land they owned. To support the Appellant's case a number of statutory declarations were submitted to evidence the barn was in use during certain periods of time, alongside photographs and an insurance policy cover note.
25. Following receipt of the CA's representations, the Appellant's Final Comments set out their consideration between "burden" and "standard" of proof when considering evidence within CIL Appeals.
26. In terms of the oast barn I am satisfied the evidence provided demonstrates the agricultural storage was consistent with the established agricultural use of the oast barn, and, therefore, lawful use under KR(i) has been met. However, not all floorspace can be included and used to offset GIA for the chargeable floorspace.
27. In my opinion, the GIA for the first floor of the oast barn cannot be included. Within the Royal Institution of Chartered Surveyors Code of Measuring Practice and the Globally applicable 6th Edition (May 2015), GIA is defined as

"the area of a building measured to the internal face of the perimeter walls at each floor level.

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 fire escapes
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential property”

28. Having fully reviewed all the documentation and having regard to the RICS guidance, I do not consider that the first floor can 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 the opinion that the ladder access mentioned in the Appellant’s documentation is not a permanent staircase; for this reason, it cannot be included.

29. In addition, I cannot include the floorspace within the oast roundel for two main reasons. First, there is no specific mention or photographs showing the use of

the oast roundel in the supporting information like there is for the oast barn. Second, [REDACTED] Statutory Declaration states that works undertaken to the oast roundel took place between [REDACTED] and [REDACTED]. This included the installation of the cowl to the roof. The Declaration stated these works made the oast roundel wind and watertight. With a decision date of [REDACTED] for the subject approval, this would not allow sufficient time following the works to meet the required criteria, thus this part of the building could not have been in use for the required timescale or if it was, there has been insufficient information provided. Referring to Schedule 1 Part 1 1.(8), it 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.”** Therefore, I am of the view the oast roundel does not satisfy Schedule 1 (10) where an **“in-use building”** is described as requiring a building 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.

The covered parking known as the [REDACTED] should be excluded from the GIA

30. The CIL charging schedule makes no mention of car ports, parking or garages. I have, therefore, looked to the RICS code of measuring practice to determine the correct assessment of GIA.
31. Car ports and covered parking spaces are not specifically mentioned within the code of measuring practice and I do not consider that they fall within any of the exclusions listed. Having examined the drawing plans, I note that the car port has three sides and incorporates a first floor office above. Taking account of the proposed construction and appearance of the structures, I have concluded that that they are more akin to open sided garages in character, rather than canopies. As such, I believe that the area should be included within the GIA in much the same way as internal open-sided balconies or loading bays are included.
32. According to the Regulation 113 Review response and the appeal representations received from the CA, following the review they concluded the CIL Liability Notice dated [REDACTED] was in fact incorrectly calculated. The CA proposed that the chargeable amount be increased to £[REDACTED] and stated they would be issuing a revised Liability Notice shortly. To my knowledge this was not received. I therefore consider that the charge being appealed by the appellant is £[REDACTED], as per the Liability Notice dated [REDACTED].

33. I have accepted the total GIA for the **chargeable development** is [REDACTED] sq. m. based on the Regulation 113 review and CA's representations. I consider the existing **in use building** GIA is [REDACTED] sq. m. In my view, this results in a net gain **chargeable amount** of GIA [REDACTED] sq. m.

34. 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, in terms of the CIL Regulations:

- Only part of the concepts of 'relevant building' and lawful use is met; and
- The calculation of floorspace provided by the Appellant is not GIA and does not accord with the RICS Code of Measuring Practice definition.

35. I consider that the CIL charge of £ [REDACTED] ([REDACTED]) is not excessive and I hereby dismiss this appeal.

[REDACTED]
[REDACTED] MRICS
Principal Surveyor
RICS Registered Valuer
Valuation Office Agency
Date: 20 October 2025