

Appeal Decision

by [REDACTED] BSc FRICS

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

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VOA Appeal Ref: 1877502

Planning Application: [REDACTED]

Proposal: "Demolition of existing bungalow and construction of 8 apartments (6x2 bedroom and 2x1 bedroom)."

Address: [REDACTED]

Decision

Appeal dismissed.

Reasons

1. I have considered all of the relevant submissions made by [REDACTED] [the Appellant] and [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 in respect of Application No: [REDACTED], dated [REDACTED], granting permission for the proposal referenced above.
 - b) CIL Liability Notice: [REDACTED], dated [REDACTED] for £ [REDACTED].
 - c) CIL Appeal form dated [REDACTED], along with supporting documents referred to as attached.
 - d) Representations from the Appellant.
 - e) Representations from the CA.
 - f) Comments from the Appellant on the CA's Representations.

2. Planning Permission for the proposal was granted as detailed [REDACTED].
3. The CA issued a CIL Liability Notice reference: [REDACTED], dated [REDACTED] for £[REDACTED], based on a chargeable area of [REDACTED] square metres [sq m].
4. On [REDACTED] the Appellant wrote to the CA which was an effective request for Regulation 113 Review.
5. On [REDACTED], the CA provided its response to the Appellant, confirming its decision of the review and reasons for the decision not to alter the amount of CIL liability of £[REDACTED].
6. On 1 [REDACTED], the Valuation Office Agency received a CIL appeal from the Appellant made under Regulation 114 (Chargeable Amount Appeal) confirming the Appellant disagrees with the CA's Regulation 113 Review decision on the basis that the chargeable amount has been calculated incorrectly, with supporting documents attached.

7. The Appellant's grounds of appeal can be summarised as follows:

- a) The Appellant does not agree with the CA's calculation of CIL within the subject Liability Notice [REDACTED].
- b) The Appellant does not dispute the CIL chargeable rate, it is only the CA's Gross Internal Area [GIA] calculation that the Appellant is challenging.
- c) The Appellant submits the GIA should be calculated as [REDACTED] sq m with a total CIL figure of £[REDACTED], being [REDACTED] sq m less the existing bungalow, of [REDACTED] sq m, equalling [REDACTED] sq m.
- d) The Appellant submits the CA has incorrectly applied the RICS Code of Measuring Practice (6th Edition) [CoMP] in that the following area has been included incorrectly in the GIA calculation:
 - i. Ground level open-sided undercroft area extending to [REDACTED] sq m.

This area is fully open on two sides, used for car parking and as a covered external walkway, and does not constitute "internal" floor space under the relevant definitions. Its inclusion inflates the GIA by [REDACTED] % over the internal areas of the flats, indicating a mismeasurement. The Appellant submits that pivotal issues in support of their appeal are:

1. The undercroft is not "internal" by the CoMP and the plain meaning of the term.
 2. Appeal precedents have excluded open-sided undercroft/carport areas from chargeable GIA.
 3. Typical design metrics (GIA vs NIA) further support that the current GIA is unrealistically high.
- e) RICS Definition of GIA - The Appellant submits the CIL regulations and Planning Practice Guidance [PPG] direct that GIA should be measured in accordance with the CoMP, which defines GIA as the area measured to the internal face of the perimeter walls at each floor level. Notable exclusions include open balconies,

covered walkways, and voids under structural floors. The guidance does not specifically mention undercrofts but emphasises that “internal” area requires enclosure by perimeter walls. The CIL PPG echoes this by requiring use of the RICS GIA definition and the ordinary meaning of “internal”, denoting space inside the weather-proof enclosure of the building.

- f) The Undercroft (Parking and Access) - The development includes a ground level undercroft area of approximately [REDACTED] sq m, with nine parking bays, of which four are partially uncovered, where the parking spaces extend beyond the elevation of the upper floor. The undercroft is open on two sides, with no perimeter walls or features enclosing the space. It functions as a car port and open passage, not as an enclosed lobby or interior garage. The area is exposed to the elements and accessible to the public, and thus, by plain language and RICS guidance, is not “internal”. The CoMP supports this view, explicitly excluding open-sided covered ways and open parking areas from GIA.
- g) Why it is not “Internal” - the undercroft is exposed to the elements and accessible on two elevations, akin to a carport or covered porch. It cannot be secured or made weathertight without significant enclosure. The CoMP guidance supports exclusion of such spaces from GIA. The presence of a roof does not justify inclusion in GIA if the space is not enclosed by perimeter walls.
- h) CIL Appeal precedents supporting exclusion - the Appellant submits several CIL appeals have addressed whether undercroft parking or similar open-sided spaces count towards GIA. Recent decisions have excluded such areas in line with RICS exclusions. Notably, Appeal Ref 1851808 (December 2024) and 1858698 (May 2025) both concluded that open-sided car ports and similar structures should not be counted in GIA, as they lack full enclosure and are not sufficiently protected from weather or securable to count as internal floor area. The Appellant’s undercroft is comparable to these cases.
- i) Disproportionate GIA vs NIA – An Anomaly Indicating Mismeasurement – the Appellant submits that by including the undercroft results in an abnormally low efficiency ratio between Net Internal Area [NIA] and GIA. The eight proposed flats have a combined NIA of approximately [REDACTED] sq m, while the Council’s GIA is [REDACTED] sq m, making NIA only [REDACTED] % of GIA. Typical apartment developments achieve [REDACTED] % NIA as a proportion of GIA. Subtracting the undercroft area brings the GIA in line with industry norms. The Council’s calculation imposes an unfair financial burden, effectively charging external car parking space at the same rate as true internal housing space.
- j) Conclusion and Requested Outcome - the Appellant concludes by submitting the regulations do not explicitly define GIA, and the Planning Practice Guidance leaves it to CA’s, but advises use of the CoMP. The Appellant requests that the literal meaning of “internal” be applied, excluding the [REDACTED] sq m undercroft from the GIA calculation. National policy emphasises not over-burdening housing developments with excessive charges. The Appellant respectfully requests that the VOA recalculate the chargeable GIA, excluding the undercroft, and base the CIL calculation on the correctly measured floor areas for the proposed development and existing bungalow, as set out in the provided plans. The revised chargeable area should comprise only the true enclosed internal area of the proposed development, which the Appellant sets out as [REDACTED] sq m less the existing bungalow of [REDACTED] sq m, a net gain of [REDACTED] sq m, which should be adopted as the chargeable area.

8. The CA has submitted representations which I have summarised as follows:

- a) History - the CA summarises the background to this appeal, as referenced above in terms of dates and process thus far, and confirms its understanding of the Appellant's reason for appealing is limited to the CA's calculation of chargeable area – specifically, the inclusion of undercroft parking.
- b) The CA submits the regulations do not specify how GIA should be measured, stating the CoMP as the accepted guidance.
- c) RICS Definition of GIA - the CA states that the Appellant argues for exclusion of undercroft parking from GIA, citing RICS guidance on measuring to the perimeter for areas not fully enclosed. The CA references a previous appeal decision, [redacted] where the inspector included a similarly open undercroft parking area within GIA, noting its coverage beneath upper floors and similarity to internal open balconies or loading bays.
- d) The Undercroft (Parking and Access) - the CA clarifies that only the covered parking bays within the building's footprint are included in GIA, as shown in an appended plan. Further, the CA states that access arrangements to the undercroft parking are deemed irrelevant to the GIA calculation.
- e) Why it is not "internal" – the CA maintains that, per the CoMP, areas within the building's footprint and covered by upper floors should be measured as internal, even if not fully enclosed.
- f) Appeal precedents supporting exclusion - the CA distinguishes between car ports as typically adjacent structures, and undercroft parking as being integrated within the building. The CA cites relevant appeal decisions, including CIL Appeal 1844853, supporting the inclusion of undercroft parking in GIA, as these areas are covered and within the building's footprint.
- g) Disproportionate GIA vs NIA – An anomaly indicating mismeasurement - the CA addresses the Appellant's comparative analysis in support of their case by asserting that liability is calculated strictly on GIA, as required by Schedule 1 of the regulations, and states arguments regarding NIA are irrelevant.
- h) Conclusion – the CA concludes its representations by reiterating that the undercroft parking area, being covered and situated within the building's footprint beneath upper floors, constitutes internal space for GIA purposes. This interpretation aligns with the CoMP and is supported by relevant appeal decisions. Therefore, the chargeable amount under the regulations has been correctly calculated.

9. The Appellant submitted comments on the CA's representations which I summarise as follows:

- a) Introduction and Summary - the Appellant reiterates that they challenge the CA's calculation of the chargeable area, specifically the inclusion of the undercroft parking / walkway area as "internal" floorspace within its GIA calculation. The Appellant contends that the [REDACTED] sq m open-sided undercroft should not be counted towards chargeable GIA, as it is fully open on two sides and functions as an external covered area. Further, the Appellant submits that including this space inflates the GIA and results in an excessive CIL liability. The Appellant requests that the undercroft be excluded from GIA, reducing the chargeable amount to a fair level commensurate with the development's true internal floorspace.
- b) Undercroft Parking Area is Not "Internal" Floor Space - the Appellant highlights the CoMP defines GIA as the area measured to the internal face of perimeter walls. It excludes "open balconies, covered walkways and voids under structural floors." The undercroft is open to the elements on two sides, lacks perimeter walls, and serves as a circulation and parking area beneath the building's upper storeys. The Appellant states that most of the [REDACTED] sq m undercroft is not parking spaces, that only [REDACTED] sq m is used for parking, with four bays partly uncovered. The majority of the area serves as an open-air driveway and walkway, resembling a carport or breezeway rather than an interior space. It lacks features of an indoor room, such as glazing or weatherproof closures, and is exposed to wind, cold, and unrestricted access. The Appellant argues that, by both RICS standards and the plain meaning of "internal," the undercroft is not internal space and should not be included in GIA for CIL purposes.
- c) Rebuttal of CA's Position: Pillars and partial enclosure do not create "internal" area - the Appellant submits the CA's suggestion that the undercroft should be included in GIA because it sits within the building's footprint and has structural support. The Appellant disputes this, arguing that the presence of a roof and a supporting pier does not make an open parking area internal. The CoMP distinguishes between truly internal spaces and those that are open or external, even if covered. The undercroft resembles a canopy or covered way, which should be excluded from GIA.
- d) Support from Professional Standards, definitions and precedents - the Appellant submits the CoMP and other CA guidance (e.g., Castle Point BC) treat open-sided car ports and canopies as external, not GIA. The Appellant references recent CIL appeal decisions:
 - i. Appeal Ref 1844853 (07 Aug 2024): Covered parking under flats included in GIA due to greater enclosure.
 - ii. Appeal Ref 1851808 (18 Nov 2024): Open-sided car ports excluded from GIA as they are akin to canopies.

The Appellant argues that the degree of enclosure is decisive, and the undercroft in this case is more open than those included in GIA in previous decisions.

- e) Viability and fairness considerations (PPG Guidance) - the Appellant highlights the impact of the CA's approach on the development's viability, referencing government guidance that CIL should not impose disproportionate burdens. Charging CIL on the undercroft results in a significant cost per flat, which could undermine the project's feasibility. The Appellant submits the undercroft does not generate saleable value and its inclusion in GIA inflates the liability unfairly. The Appellant urges that CIL be implemented pragmatically, excluding ambiguous external spaces to ensure fairness and support deliverability.
- f) CAD Measurements and floor area discrepancies - the Appellant states they have provided professional CAD-derived measurements showing the NIA of the flats is [REDACTED] sq m, with a correct GIA (excluding the undercroft) of [REDACTED] sq m. The CA's assessed GIA is [REDACTED] sq m, resulting in a [REDACTED] % difference between NIA and GIA, which is anomalous and attributable to the undercroft's inclusion. The Appellant asserts that their methodology is faithful to the RICS Code, while the CA's approach exaggerates the internal area.
- g) The Appellant concludes that the undercroft parking area must be excluded from GIA for CIL purposes, as it is not "internal" by RICS standards, common understanding, or recent appeal decisions. Including the undercroft overstates the development's true internal floor area and results in an unfairly inflated CIL liability. The Appellant requests that the chargeable amount be recalculated using only the aggregate GIA of the flats and enclosed common areas, excluding the undercroft, to ensure the CIL charge is accurate, lawful, and fair, reiterating their opinion of the correct revised CIL chargeable amount should be calculated as:
- i. GIA of [REDACTED] sq m less existing bungalow of [REDACTED] sq m
 $x (\text{£} [REDACTED] \times [REDACTED]) = \text{£} [REDACTED]$.

10. Having fully considered the representations made by the Parties, I make the following observations regarding the grounds of the appeal:

- a) The Appellant does not agree with the CA's calculation of GIA.
- b) Both Parties refer to past VOA CIL Appeal decisions. I cannot comment on, or determine, the validity of decisions made on previous CIL reviews regardless of whether these are in connection with the subject proposals or other unconnected ones. The individual circumstances of each appeal are assessed on a case by case basis on their own merits. In this connection, as for the previous cases referred to, unless these involve an identical set of issues, case by case consideration means that previous VOA decisions can be helpful to consider however do not set precedents.
- c) The CA's Liability Notice states at "How we calculated this figure":

"We calculated this figure using the formula below as set out in regulation 40 of the CIL Regulations 2010 (as amended) (R x A x Ip)÷ Ic"

Or put more simply, CIL Total Area Charge = Chargeable Area (A) x Rate (R) x Index (I). Clarification of GIA is provided in the form of:

"The Chargeable Area is the gross internal area of the total development less the floorspace of any existing buildings which are eligible deduction."

- d) The CIL Charging Schedule Rate “Rate” and associated indexation “Index” are not disputed between the Parties.
- e) Schedule 1 Part 1 of the Regulations state at (6) that GIA is the basis for quantifying the part of the development to which the Rate is applied and is the generally accepted method of GIA calculation.
- f) Regulation 40 - Calculation of chargeable amount - of the Community Infrastructure Levy Regulations 2010 (as amended) now contained in Schedule 1 Part 1 of the Community Infrastructure Regulations (amendment)(England) (No.2) 2019 details the formula to be used in the calculation of chargeable amount – this is effectively the same as the equation detailed in the “How we calculated this figure” section of the CIL Liability Notice.
- g) The term Gross Internal Area [GIA] is not defined in the CIL Regulations however the Guidance Note, RICS Code of Measuring Practice [CoMP] is the principle guidance available. The prevailing edition of the RICS Code of Measuring Practice, at the date the subject Planning Permission was granted, [REDACTED], was the 6th edition. The purpose of the Code is to “provide succinct, precise definitions to permit the accurate measurement of buildings and land, the calculation of the sizes (areas and volumes) and the description or specification of land and buildings on a common and consistent basis. This may be required for valuation, management, conveyancing, planning, taxation, sale, letting, or acquisition purposes.”
- h) The CoMP defines GIA as:

“...the area of a building measured to the internal face of the perimeter walls at each floor level (see note GIA 4).”

✓ 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 a level floor measured horizontally
- ✓ Horizontal floors, with permanent access, below structural, raked or stepped floors

*** 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

- ✓ Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- ✓ Mezzanine floor 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 (see APP 6)
- ✓ Pavement vaults
- ✓ Garages
- ✓ Conservatories

Note GIA 4 referenced above is a "how to use" note, clarifying:

"Internal face – means the brick/block work or plaster coat applied to the brick/block work, not the surface of internal linings installed by the occupier"

- i) The parties appear to be in agreement in accepting the CoMP definition of GIA, however, the Parties both submit that each other has erred in its application when calculating the GIA of the development.
- j) I have considered the element of the development which the Parties remain in dispute over, the undercroft area. I summarise this, considering the application of the CoMP, as whether the undercroft area and its features are to be included or excluded when calculating GIA. I address this area of fundamental disagreement based on the respective plans submitted by the Parties as part of their representations in conjunction with the various descriptors of the space for ease of reference:

"open-sided undercroft parking and walkway area at ground-floor level which is fully open on two sides, lacking perimeter walls or railings, and functions as a parking and circulation space beneath the upper storeys of the building. By any reasonable interpretation, it is not "internal" space, it is exposed to the elements on two sides and operates as an external covered area, primarily serving as a driveway and pedestrian route."

As I have referenced above, the CoMP’s purpose is to guide by providing precise definitions to permit the accurate and **measurement** of buildings and land, the **calculation of the sizes** (areas and volumes) and the description or specification of land and buildings on a common and consistent basis. I am not disputing that undercroft is significantly open to the elements on two sides, however, the CoMP’s purpose is not to guide on whether floor area should be categorised as internal or external literally, in this context, it is to guide on what should be included or excluded in calculation of GIA as defined.

- k) I am of the opinion the undercroft area at ground level should be included within the GIA. The undercroft area is wholly below the upper floor level and within the proposed building’s footprint as bounded by the perimeter walls or line of the perimeter walls and columns at ground level, therefore, I am of the opinion the undercroft area is akin to a loading bay in its configuration and situation within the proposed three storey building, sharing more characteristics with the CoMP defined GIA “Including” descriptors, than the “Excluding”.
- l) I have undertaken my own calculation of GIA with measurements taken from the plans supplied by the Appellant. I calculate the GIA of the proposed flats to be [REDACTED] sq m and summarise how my areas compare with the Parties in the table below:

1877502 – Appointed Person check on GIA I Updated:		12/12/2025	
Floor Level	Appellant	CA	AP-
Ground	[REDACTED]	[REDACTED]	[REDACTED]
First	[REDACTED]	[REDACTED]	[REDACTED]
Second	[REDACTED]	[REDACTED]	[REDACTED]
Total Proposed GIA	[REDACTED]	[REDACTED]	[REDACTED]
Less Bungalow	[REDACTED]	[REDACTED]	[REDACTED]
Chargeable Area (sq m)	[REDACTED]	[REDACTED]	[REDACTED]

- m) The Appellant raises and reiterates matters out with the scope of this Regulation 114 Appeal including potential impact on viability of development and NIA to GIA ratio benchmarking. Under a Regulation 114 CIL appeal, the scope is limited to challenging the chargeable amount stated in the Liability Notice. This means the Appointed Person can only consider whether the calculation of the CIL charge was correct. Issues that fall outside the jurisdiction of a Regulation 114 appeal and cannot be adjudicated within that process. The appeal form and VOA guidance confirm that representations must relate to the calculation of the chargeable amount only, following a prior review under Regulation 113.

There is no dispute between the Parties over the CIL Charging Schedule Rate applied, therefore as my calculated chargeable area aligns with the CA’s, I dismiss this appeal.

[REDACTED] BSc FRICS
 Valuation Office Agency
 15 December 2025