Appeal Decision

by [redacted] MRICS FAAV

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

Valuation Office Agency
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Durham
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Appeal Ref: 1884358

Planning Permission Ref. [redacted]

Proposal: Full application for the permanent retention of a rural workers dwelling.

Location: [redacted]

Decision

I dismiss this appeal and determine that the Community Infrastructure Levy (CIL) payable in this case should be £[redacted] ([redacted]).

Reasons

1. I have considered all the submissions made by the Appellant's agent, [redacted] of [redacted] (acting on behalf of the Appellant [redacted]) 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 decisions Ref [redacted] (granted [redacted]) and Ref [redacted] (granted [redacted]).
   b) CIL Liability Notice [redacted] dated [redacted];
   c) CIL Appeal form dated [redacted].
   d) Representations from the Appellant received [redacted] including:
      i. Planning Officers Delegated Report for planning permission ref [redacted].
      ii. Decision Notice for [redacted]
      iii. Floor plans/Elevations of mobile home

iv. Supporting Agricultural Statement
v. Statement of Truth – [redacted]
vi. Regulation 113 appeal letter and the CA's response.

e) Representations from the CA dated [redacted], which included:
i. Planning Officer Report for planning permission ref [redacted]
ii. Site visit photograph dated [redacted]
iii. Site visit photograph dated [redacted]
iv. Site visit photograph dated [redacted]
v. A VOA CIL Appeal, redacted decision.
f) Further representations from the Appellant dated [redacted].

Background

2. The planning permission which triggered the CIL Liability Notice, which is the subject of this Appeal, was granted on [redacted] (Ref [redacted]) for 'the permanent retention of a rural worker's dwelling'.

3. However there had been two previous planning permissions granted at the site:

a) Planning permission, Ref [redacted] was granted on [redacted] for the 'siting of a temporary worker's dwelling'. A planning condition stated the mobile home be removed and the land restored to its original condition on or before three years from the date of permission.

b) Planning permission Ref [redacted] was granted on [redacted] for 'the change of use of land for the temporary siting of a rural worker's dwelling'. A planning condition was again applied, stating the mobile home be removed and the land restored to its original condition on or before three years from the date of permission.

4. The CA issued a CIL liability notice on [redacted] in the sum of £[redacted]. This was calculated on a chargeable area of [redacted] square metres (sq. m.) at the rate of £[redacted] per sq. m. plus indexation.

5. The Appellant requested a review under Regulation 113 on [redacted]. The CA responded on [redacted], upholding their original decision.

6. On [redacted], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contesting that the CIL liability should be £0. The Appellant considers the development is not CIL liable and the lawful, 'in use' test as outlined in Regulation 40 is met, so the existing gross internal area (GIA) should therefore be offset against any CIL charge.

Grounds of Appeal

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

a) The development is not chargeable as the mobile home does not constitute a 'building' for the purposes of CIL. It is a mobile home by virtue of its impermanence and mobility.

b) If the development **was** to be treated as a new dwelling or building for CIL purposes, the [redacted] sq. m. of chargeable floor area satisfies the existing lawful 'in use' test and the existing GIA should be offset, resulting in a liability of £0.

8. The CA has submitted representations that can be summarised as follows:

a) The CA considers the structure fails to satisfy the definition of a caravan due to an extension having been built to one side. The extension has concrete foundations and is attached to the dwelling. The whole structure was therefore assessed as a single dwelling for the purposes of planning application ref [redacted]. The addition of the extension demonstrated a degree of permanence inconsistent with a mobile caravan and the CA considered it fails the 'Skerritts test'.

b) The floorspace of the existing structure can not be offset against the chargeable amount. Regulation 40 Schedule 1 (10) (iii) states a 'building' does not include, (for the purposes of calculating the chargeable amount) buildings 'for which planning permission was granted for a limited period'. Both previous planning permissions on the site only authorised the temporary siting for a maximum period of three years.

Reasoning

Chargeable Development – Building

9. Background:

a) Following the granting of planning permission [redacted] on [redacted], a mobile home was sited as a 'temporary rural workers dwelling'. The temporary planning permission expired on [redacted]. A second application, again with temporary permission was sought and granted on [redacted].

b) The second planning permission included an extension. The Appellant acknowledges (in their Regulation 113 request to the CA dated [redacted]) that the addition of the extension meant the overall structure no longer met the definition of a 'caravan' as set out in the Caravan Act (1960). This permission was again temporary, expiring on [redacted].

10. Planning permission [redacted] was granted on [redacted], for a 'rural workers dwelling'.

11. The Appellant contests the CA's view that the structure is a building, stating the mobile home can still be detached from the land and moved; the home remains on its steel chassis without conventional strip foundations. The Appellant considers the works required to remove the extension element would be minor and akin to removing steps and or decking as found on caravan and park

homes sites. They also state how the structure was originally 'moved to the site' to demonstrate the mobile nature of the structure, as opposed to it having being built on site.

12. The Appellant therefore considers the structure cannot be considered a 'building' for CIL purposes and also cites the Skerritts Test in reaching this conclusion.

13. The CA disagree. They consider the addition of the extension (with its permanent concrete foundations and being attached to the dwelling), demonstrates a degree of permanence and in accordance with the ruling in Skerritts of Nottingham Ltd v Secretary of State for the Environment, is a building. The structure exceeds the maximum width in order to be classified as a 'caravan' and fails the mobility test under the Caravan Sites Act 1968.

14. The CA present photographic evidence of the concrete foundations being present from [redacted] which precedes the granting of permission [redacted] by four months. However the Appellant states this addition was introduced under that permission.

15. There is no definition given to the word "building" within the CIL Regulations, save for Schedule 1 Part 1 1(10), which states that "building" does not include:

    (i) a building into which people do not normally go,
    (ii) a building into which people go only intermittently for the purpose of maintaining or inspecting machinery, or
    (iii) a building for which planning permission was granted for a limited period;

    In the absence of any clear guidance from Schedule 1 Part 1 1(10), I have therefore, had recourse to:

    (i) the dictionary; for a clear definition as to what constitutes a "building", and
    (ii) guidance from case law.

16. The definition of "building" within the Shorter Oxford English Dictionary, 6th Edition (Shorter OED) is defined as 'A thing which is built; a structure; an edifice; a permanent fixed thing built for occupation, as a house, school, factory, stable, church, etc.'

17. The case of Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions (No 2) [2000] 2 PLR 102 (referred to by both parties), established three criteria, when considering the definition of a "building":

    (i) Size
    (ii) Permanence
    (iii) Degree of Physical Attachment

    a) **Size**: Within their representations, the Appellant confirms the overall size of the structure ([redacted] m x [redacted] m, with an extension of [redacted] m x [redacted] m) which exceeds the size definition of a caravan as stated in the Caravan Act 1960. (The Caravan Sites and

Control of Development Act 1960 (Section 29(1)) defines a caravan as a movable structure for human habitation. The Caravan Sites Act 1968 (Section 13(2)) defines the maximum dimensions for a "twin-unit" caravan. Statutory Instrument 2006 No. 2374, amended the 1968 Act to set the current maximum dimensions of 20m x 6.8m for a caravan).

b) **Permanence**: Considered in its entirety, as a single unit, the structure is physically attached and concreted to the ground, by way of the extension that is built upon concrete foundations. Photographs show a brick plinth around the building and two sets of brick and concrete steps, which would lead a bystander to view the structure as a permanent building.

c) **Physical attachment to the ground;** the structure is attached to services which is not conducive to it being permanently affixed to the ground. However, the extension is built on fixed, immovable concrete foundations. The roof of the extension is pitched and joins the roof of the main part. The evidence presented does not indicate that the structure could be quickly and or easily moved without a degree of demolition. The original structure is joined to the extension.

18. Having considered the evidence presented by both parties, I therefore determine the structure to be a building (and a dwelling).

19. The Appellant raises the issue of exemption for minor development. This is a moot point as the development comprises 'one or more dwellings' (Regulation 42 (2)) and thus Minor Development Exemption cannot apply.

Ground 2 – 'In Use' Offset

20. The Appellant states that if the development **is** determined to be a 'building' and a 'dwelling' it qualifies for 'offset' relief within the calculation of the CIL charge. The reasoning being it was an existing building in lawful use for a period in excess of six months, within the relevant three-year period. They presented evidence to support this, including an Agricultural Statement.

21. The CA rebuke the Appellant's arguments for offset; they highlight the CIL Regulations (Regulation 40, Schedule 1 (10)(iii) which specifically states 'a building does not include 'a building for which planning permission was granted for a limited period'.

22. The Appellant argues that Regulation 5(2) and Regulation 40(11)(iii) (I have assumed they mean Regulation 40 (10) (iii), support GIA offset being allowed. I disagree :

a) Regulation 5(2) provides that planning permission granted for a limited period is not treated as "planning permission" for determining **CIL liability**. Its effect is that temporary permissions do not give rise to CIL and are excluded from liability assessments under Part 2.

b) Regulation 40(10)(iii) **operates within the charge calculation** and prevents the deduction of floorspace (GIA) where a building exists only by virtue of a time-limited permission.

23. Both previous planning permissions at the site, included planning conditions stating that planning was granted on a temporary basis for a period of three years.

24. In accordance with Regulation 40 (10) (iii), no credit or offset can therefore be given for the GIA of the building that previously had planning permission granted for a limited time.

Decision

25. The parties firstly dispute whether the structures are buildings and secondly dispute the chargeable amount as the Appellant considers the existing structure should be offset against the CIL Liability calculation.

26. I opine that the size, permanence and physical attachment of the structure are demonstrated in a way that supports the subject being defined as a building.

27. The previous planning permissions, both clearly had time limits attached as planning conditions. As per Schedule 1 of the Regulations the floorspace of the existing structure can not therefore be deducted from the GIA of the chargeable development.

28. I therefore determine that the Community Infrastructure Levy (CIL) payable in this case should be £[redacted] ([redacted]) and dismiss this appeal.

[redacted]

[redacted] BSc (Hons) MRICS FAAV
Valuation Office Agency
03 March 2026