

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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Appeal Ref: 1885870

Planning Permission Ref. [REDACTED]

Proposal: Demolition of the existing building and the erection of a part 7, part 13 storey co-living building (Sui Generis) and associated communal amenity facilities, refuse storage, cycle parking and plant equipment’.

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] (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 decision [REDACTED], granted on [REDACTED].
 - b) CIL Liability Notice [REDACTED], dated [REDACTED].
 - c) Regulation 114, CIL Appeal form, dated [REDACTED].
 - d) Representations from the Appellant received [REDACTED] including:
 - i. Decision Notice, Planning Consent reference [REDACTED]
 - ii. CIL Liability Notice [REDACTED]
 - iii. Regulation 113 review request to the CA dated [REDACTED]

- iv. Regulation 113 review response from the CA dated [REDACTED]
- v. Full plans, elevations and site plan for the subject development
- vi. Section 106 agreement dated [REDACTED]
- vii. CIL Appeal Decision (redacted) reference 1860926.

- e) The response and representation from the CA dated [REDACTED].
- f) Further representations from the Appellant dated [REDACTED].

Background

- 2. Planning permission [REDACTED] was granted on [REDACTED] for 'Demolition of the existing building and the erection of a part 7, part 13 storey co-living building (Sui Generis) and associated communal amenity facilities, refuse storage, cycle parking and plant equipment.'
- 3. The CA issued CIL liability notice [REDACTED] on [REDACTED], which forms the basis of this appeal. This was calculated on a chargeable area of [REDACTED] square metres (sq. m.) at the rate of £[REDACTED] per sq. m. plus indexation ([REDACTED]).
- 4. The Appellant requested a review under Regulation 113 on [REDACTED]. The CA responded on [REDACTED], upholding their original decision.
- 5. On [REDACTED], the Valuation Office Agency received a CIL appeal made under Regulation 114 (chargeable amount) contesting that the CIL liability should be £0.

Grounds of Appeal

- 6. The Appellants' main ground of appeal can be summarised as follows:
 - a) The Appellant considers the development is not CIL liable as 'Co-Living' (which falls within planning class use 'Sui Generis' and is also called Large Scale Purpose Built Shared Living) is not expressly listed on the Charging Schedule and does not fall within the "Residential / Hotels / Sheltered Housing/ Private Rented Hostel Accommodation (including student accommodation)" category.

They consider the use is not comparable to any of the uses listed within the 'residential' category and as such should fall within the 'all other chargeable development category' which attracts a zero rate for CIL purposes.
- 7. The CA maintain that co-living (or purpose built, shared living accommodation) is a residential use and as per the Charging Schedule, is liable for CIL at a rate of £[REDACTED] per sqm.

Matters not in dispute

8. Both parties agree:

- a) That the development constitutes a chargeable development under Regulation 42 of the CIL Regulations, which states that development which creates more than 100sqm of new-build floorspace will be liable for CIL.
- b) That there was a CIL Charging Schedule in place at the date of the granting of the planning permission and therefore CIL Liability has arisen.
- c) There is no dispute over the measurement of floorspace, including the amount of floorspace which was lawfully in-use and can be deducted from the chargeable floorspace, and therefore the amount of chargeable new-build floorspace (GIA Gross Internal Area).

9. The CA further confirm that they do not dispute that co-living is a Sui Generis use within the Use Classes Order.

Reasoning

10. The Appellant references CIL Appeal Decision 1860926 to support their appeal. That Decision turned on whether the proposed use of the development as student accommodation fell within the CIL Charging Schedule for the type of development described as 'Residential (including all residential 'C' use classes)'. If it did not, it would fall under the entry 'all other uses' which attracted a nil CIL rate. However, this CIL Decision was challenged via Judicial Review and quashed and the matter will be dealt with by a different Appointed Person and a new Decision issued in due course.

11. Within their representations the CA state:

- a) The Charging Schedule is not based on Use Classes and there is no reference to any use classes within the 'residential' category.
- b) Co-living is a new form of residential development that first appeared in London around 2015 and application [REDACTED] is the first planning application for this type of development within [REDACTED].
- c) The Council are in the process of updating its Local Plan to include a new Policy (H15) on purpose built, shared living accommodation, which is at public examination stage.
- d) It is not reasonable or realistic to expect the CIL Charging Schedule to therefore have already been updated to specifically include co-living as a separate type of development, when the Local Plan (for which a partial update was submitted to the Secretary of State in May 2025) remains at public examination stage.

12. The CA also cite and rely upon Planning Practice Guidance which states:

- a) 'Charging Schedules should be consistent with and support the implementation of, up-to-date relevant plans'....
- b) 'Charging Authorities may also set differential rates by reference to different intended uses of development. The definition of 'use' for this

purpose is not tied to the classes of development in the Town and Country Planning Act (Use Classes) Order 1987 (as amended) although that Order does provide a useful reference point’...

- c) ‘A Charging Authority that plans to set differential rates should seek to avoid undue complexity’.

13. The Appellant asserts:

- a) That by virtue of the Charging Schedule specifically referring to A1 retail, that the CA acknowledge that planning class uses can be useful in categorising uses within the Charging Schedule. Also, by stating specific, different types of residential property (hotels, sheltered housing, student housing, private rented hostel accommodation) this removes the generalist term of ‘residential’ that the CA are relying upon as an umbrella, descriptive term.
- b) Co-Living is not specifically mentioned and is a distinct use that differs from other types of housing or residential use mentioned within the CA’s Charging Schedule.
- c) In the absence of the CA not revising or updating their Charging Schedule to include Co-Living and other new uses which have emerged since 2015, the CA are wrong to retrospectively insert co-living into ‘residential’ rather than ‘all other uses’.

Decision

14. The CIL Regulations 2010 do not require a CA to set charging rates in accordance with Planning Class Uses. **Regulation 13** states:

‘Differential rates:

13.—(1) A charging authority may set differential rates—

- a) for different zones in which development would be situated;
- b) by reference to different intended uses of development;**
- c) by reference to the intended gross internal area of development;
- d) by reference to the intended number of dwellings or units to be constructed or provided under a planning permission.’

15. Many CA’s choose to structure their Charging Schedules to define some categories of development to which charges apply, by referencing Planning Class Uses, to provide clarity. However the Regulations clearly state (Regulation 13) it is the **intended use of the development that determines the differential rate.**

16. Both parties agree that Co- living arrangements are purpose-built, high-density housing developments, with this being the first such development within [REDACTED] area, the concept having been launched in London.
17. The CA cite Planning Policy Guidance (PPG), referencing the updating and adoption of Local Plans and the avoidance of undue complexity in setting differential rates (for CIL purposes). This PPG supports their view that the despite the term 'co-living' not being specifically identified within the Charging Schedule, the development still firmly sits under the descriptive umbrella category of 'residential' for CIL charging purposes.
18. Having considered representations from both parties, I do not regard it as unreasonable that specific mention of 'co-living' is not made within [REDACTED] Councils CIL Charging Schedule, especially as their Local Plan is under review (public examination stage). I do not consider the absence of specific mention within the residential category as being reason enough for the development to be categorised as 'all other chargeable development'.
19. The Appellant is not seeming to challenge the use of the intended development as being residential, more so the categorisation of this use within the CIL Charging Schedule.
20. I opine the Appellant is incorrect in their belief that the absence of specific mention (of co-living accommodation) precludes the development from being regarded as residential.
21. The Sui Generis category which co-living falls within, I consider to be secondary to the '**intended use of the development**', as per Regulation 13 of the CIL Regulations.
22. I opine the 'co-living' development has been **correctly categorised within 'residential'** and does not fall within 'all other chargeable development' for CIL calculation charge purposes.
23. Having considered the evidence presented I therefore determine that the Community Infrastructure Levy (CIL) payable in this case should be £[REDACTED] ([REDACTED]) and dismiss this appeal.

[REDACTED] BSc (Hons) MRICS FAAV
Valuation Office Agency
19 March 2026