Appeal Decision

By [redacted] MRICS FAAV

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

Valuation Office
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Appeal Ref: 1896473

Planning Permission: [redacted]

Description:
Conversion and extension of agricultural buildings to 6 residential units, alteration to the existing access, construction of ancillary buildings and construction of parking and turning areas

Location: Proposed Barn Conversions at [redacted]

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

Reasons
1. I have considered all of the submissions made by [redacted] (the Appellant) and [redacted] (the Collecting Authority or CA). In particular, I have considered:

    a) Planning permission [redacted] granted on [redacted].
    b) CIL Form 1 and the supporting lawful-use evidence.
    c) CIL Liability Notice [redacted] dated [redacted] for £[redacted].
    d) The correspondence between the Appellant and CA concerning the existing building deduction. Although no document was formally headed as a Regulation 113 review request, the written correspondence requested reconsideration of the calculation in Liability Notice [redacted] and was made within the period prescribed by Regulation 113(2). The CA treated that correspondence as a Regulation 113 review request.

e) The Regulation 114 appeal dated [redacted] with plans and supporting documents.
f) Statutory declarations and accompanying plans and photographs.
g) The CA Statement of Case dated [redacted] and appendices.
h) The Appellant's final response and further evidence dated [redacted].

Background

2. Planning permission reference [redacted] was granted on [redacted] for conversion and extension of agricultural buildings to six residential units with ancillary buildings, access, parking and turning areas. The Planning Statement with the Application was for 'Proposed Change of Use, Conversion and Minor Extension of Former Agricultural Buildings to Residential (6 no. dwellings with parking facilities and associated accommodation works) At [redacted].

3. Liability Notice [redacted] was served on [redacted] for £[redacted]. The charge was based on a rural residential rate of £[redacted] per sqm (square metre), indexed by reference to [redacted] and [redacted], and a total chargeable area of [redacted] sqm. No allowance was made for retained or demolished existing floorspace.

4. The CIL Form 1, submitted with the planning application, identified two existing agricultural buildings as qualifying for existing floorspace deductions for CIL calculation purposes. The form recorded a last lawful use date of [redacted] and claimed Gross Internal Areas (GIAs) of approximately [redacted] sqm for conversion and [redacted] sqm for demolition.

Grounds of Appeal

5. The appeal is made under Regulation 114 on the ground that the original chargeable amount has been calculated incorrectly.

6. The Appellant argues that existing agricultural buildings qualify as in-use buildings and that qualifying retained or demolished floorspace should be taken into account in the calculation.

7. The Appellant contends that the correct liability is nil because the agricultural buildings were in use for agricultural storage and operational purposes which included fertiliser, seed and machinery storage, sheep housing and crop-grading activities.

Summary of the Appellant's Case

8. The Appellant submits that the farmstead was returned to agricultural use between [redacted] and [redacted] after repair and clearance works.

9. A Farm Manager's statutory declaration states that agricultural activities were carried out across all traditional brick buildings and Unit [redacted] shown on its plan. The uses described include storage of fertiliser, pesticides and machinery storage, lime

deliveries, potato and carrot grading and historically, overnight housing of sheep before shearing.

10. The Appellant's representations added that fertiliser and seed were stored in Unit [redacted] and two parts of the U-shaped building and that sheep gates and shearing equipment were stored all year-round in a single-storey section of the U shaped building. Delivery records, photographs and a message referring to materials remaining on site in [redacted] have been provided and are relied upon as corroboration.

11. Before and after issuing the CIL Liability Notice, the CA advised the Appellant that the evidence they had provided to support their claim that the buildings qualified for offset, was insufficient to establish lawful use of the existing buildings.

12. On [redacted], the CA stated that the winter wheat invoice and Farm Manager's email did not demonstrate that the buildings had been in lawful use. The CA requested a witnessed statutory declaration or affidavit and explained that the Liability Notice could be revised if sufficient evidence was supplied within 28 days.

13. The Appellant presented the following evidence to establish lawful use of the buildings:

    a) Form 1 – Determination of CIL Liability (submitted [redacted]); the appellant completed the form stating that two existing agricultural buildings qualified for existing floorspace deductions. The form recorded a last lawful use date of [redacted] and claimed GIAs of approximately [redacted] sqm (for conversion) and [redacted] sqm (for demolition) respectively for each building.

    b) Statement from Farm Manager (date provided with lawful use submission) [redacted] Farm Manager stated that [redacted] provided the only buildings and yard available to support the estate's arable operation and asserted that the buildings were used for fertiliser storage, pesticide storage, agricultural lime deliveries, potato and carrot grading, machinery storage and sheep husbandry activities. The statement sought to demonstrate that the buildings formed part of an operational agricultural enterprise.

    c) Statutory Declaration dated [redacted]. Following the CA's request for stronger evidence, the appellant submitted a statutory declaration from [redacted]. The declaration repeated the assertions contained within the Farm Manager's statement and confirmed that the farm buildings were used in connection with fertiliser storage, pesticide storage, lime deliveries, grading of agricultural produce, machinery storage and sheep-related agricultural activities.

    d) Statutory Declaration from [redacted]; The Appellant submitted a second statutory declaration from [redacted] in response to concerns raised regarding the sufficiency of the earlier evidence. The declaration stated that

renovation works had been undertaken in early [redacted] to enable continued use of the traditional buildings and asserted that agricultural activities took place between [redacted] and [redacted]. The declaration stated that fertiliser storage, pesticide storage, agricultural lime deliveries, potato and carrot grading, machinery storage and sheep husbandry activities were carried out across all of the traditional brick buildings and Unit [redacted]. The declaration further asserted that the buildings were "in full use during this period". A site plan and photographs were attached in support of these assertions.

e) Site Plan accompanying the Second Statutory Declaration. The second statutory declaration was accompanied by a plan identifying the traditional brick buildings and Unit [redacted] that the appellant contended were used as part of the agricultural operation. The plan was relied upon to identify the buildings said to qualify as in-use buildings for CIL purposes.

f) The Appellant included photographs dated [redacted] and [redacted] showing the buildings, yard areas and repair works. The purpose of the photographs was to demonstrate that the buildings remained physically capable of agricultural use and were not abandoned or derelict.

g) CIL final response, dated [redacted]. The Appellant sought to reinforce the lawful use case by explaining how the buildings were used in connection with the agricultural enterprise. The Appellant stated that fertiliser and seed were stored within Unit [redacted] and buildings within the application site, that pesticides, lime, potatoes, carrots and machinery were delivered to the hardstanding areas but were stored within the buildings at various times, and that sheep gates and shearing equipment were retained within part of the U-shaped building throughout the year. The submission also asserted that the statutory declaration should be afforded significant evidential weight.

h) The Appellant submitted fertiliser delivery tickets and seed delivery documentation, together with photos of empty fertiliser bags. They relied upon these documents as evidence that agricultural supplies requiring storage were delivered to the farm and that agricultural operations continued during the relevant period.

i) Also submitted was a screenshot of a WhatsApp message from [redacted] which was said to demonstrate that agricultural items remained stored on the site in [redacted]. The Appellant relied upon this message as additional evidence that the buildings continued to be associated with agricultural activities after the period referred to in the statutory declarations.

Summary of the Collecting Authority's Case

14. The CA relies on Schedule 1 paragraphs 1(8) and 1(9) of The Community Infrastructure Regulations 2010 (as amended) and submits that information of sufficient quality has not been provided to establish qualifying lawful use of the relevant buildings for the required period.

15. The CA therefore upholds the CIL Charge and considers the Liability Notice to be correct.

16. The CA state that they advised the Appellant on a number of occasions that the evidence submitted was of insufficient quality to establish lawful use of the buildings. After the first statutory declaration was submitted, the CA advised on [redacted] that the evidence remained insufficient because no plan identified the relevant buildings, the fertiliser and sheep uses were not linked to specified buildings and dates, and the remaining activities appeared to relate to the yard rather than the buildings.

17. The Appellant was directed to the Regulation 114 appeal procedure as the evidence they had presented was considered to not be sufficiently prescriptive and accurate to ascertain the exact dates, use, consistency of use and relevant GIA for the two existing buildings to qualify as 'in use' for CIL calculation purposes.

18. The CA states that these shortcomings were expressly brought to the Appellant's attention but were not sufficiently addressed. The Appellant was specifically advised of the need to identify the relevant buildings, their particular uses and the dates of those uses before the Regulation 114 appeal was made but sufficiently detailed evidence failed to be provided.

The Community Infrastructure Levy Regulations 2010 (as amended)

19. Regulation 40 and Schedule 1 to the Community Infrastructure Levy Regulations 2010 (as amended) set out the statutory method for calculating the chargeable amount. Schedule 1, Part 1 applies to standard cases and provides for qualifying retained and demolished floorspace to be taken into account when calculating the deemed net chargeable area.

20. Schedule 1 paragraph 1(6) provides the formula for calculating the deemed net area chargeable and defines the components G, GR, KR and E.

21. Schedule 1, Part 1, paragraphs 1(8) and 1(9) state:
(8) 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.

(9) Where the collecting authority does not have sufficient information, or information of sufficient quality, to enable it to establish—

(a) whether part of a building falls within a description in the definitions of KR and E in sub-paragraph (6); or

(b) the gross internal area of any part of a building falling within such a description, it may deem the gross internal area of the part in question to be zero.

22. Regulation 9 identifies the chargeable development by reference to the development for which planning permission is granted.

23. Schedule 1, Part 1, paragraph 1(10) states that 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.

24. “Relevant building” means a building which is situated on the “relevant land” on the day planning permission first permits the chargeable development. “Relevant land” is “the land to which the planning permission relates” or where planning permission is granted which expressly permits development to be implemented in phases, the land to which the phase relates.

Key Issues

25. The key issues being debated are:
    a) Whether either relevant building contained an identifiable part that was in lawful use for a continuous period of at least six months within the three-year period ending on [redacted].
    b) Whether the information provided is sufficient and of sufficient quality to identify any qualifying part and determine its GIA.
    c) Consequently, whether any floorspace may be included within KR or E when calculating the deemed net area chargeable under Schedule 1 paragraph 1(6):

    KR = the aggregate of the gross internal areas of the following—
    (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;
    E = the aggregate of the following—
    (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development; and
    (ii) for the second and subsequent phases of a phased planning permission, the value Ex (as determined under paragraph 1(7)), unless Ex is negative, provided that no part of any building may be taken into account under both paragraphs (i) and (ii).

26. The U-shaped building and Building [redacted] are the ‘relevant buildings’ within the land to which the permission relates and this is not disputed.

27. The day on which planning permission first permitted the chargeable development was

[redacted]. The relevant three-year period therefore ended on [redacted] and began on [redacted].

Reasoning

Evidence and the CA's Prior Advice

28. I have taken account of the fact that the CA advised the Appellant at several stages that the evidence submitted was insufficient. They identified the principal omissions, while also directing the Appellant to further guidance.

29. The issues before me are:
    a) whether the evidence is sufficient to establish that either relevant building was in lawful use for a continuous period of at least six months within the relevant three-year period and,
    b) whether the information is also of sufficient quality, to establish whether part of a building falls within the definitions of KR or E, or to establish the GIA of that part.

Existing and Demolished Floorspace

30. The Appellant has not provided a schedule identifying the GIA of the existing buildings, the parts used and their corresponding GIAs, the purpose and dates of each use, whether each part is to be retained or demolished, or the corresponding floorspace claimed within KR or E.

31. The approved plans identify the proposed development floorspace but do not establish the GIA of qualifying existing floorspace capable of inclusion within KR or E.

Calculation of the Chargeable Amount

32. Schedule 1 paragraph 1 applies to the calculation of the chargeable amount in standard cases. Paragraph 1(4) states:

"(4) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times I_P}{I_C}$$

where—
A = the deemed net area chargeable at rate R, calculated in accordance with sub-paragraph (6);
IP = the index figure for the calendar year in which planning permission was granted; and IC = the index figure for the calendar year in which the charging schedule containing rate R took effect."
Schedule 1 paragraph 1(6) provides that A must be calculated using the formula A = GR × (G − KR − E) / G.

33. Schedule 1 paragraph 1(10) defines an “in-use building” as a relevant building that 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.

34. The proposed area of [redacted] sqm is not disputed.

35. The approved development comprises: Ground floor: [redacted] sqm. First floor: [redacted] sqm. Carports: [redacted] sqm. Garages: [redacted] sqm. Total chargeable GIA: [redacted] sqm.

G = [redacted] sqm.
GR = [redacted] sqm.
KR = 0 sqm.
E = 0 sqm.
A = [redacted] × ([redacted] − 0 − 0) / [redacted] = [redacted] sqm.

CIL = (A × R × IP) / IC
A = [redacted] sqm.
R = £[redacted].00 per sqm.
IP = [redacted].
IC = [redacted].
CIL = ([redacted] × £[redacted] × [redacted]) / [redacted].
CIL = £[redacted].

Identification and Duration of Use

36. The Appellant relies upon the statutory declarations of [redacted], together with delivery records, photographs, a text screenshot and further explanatory submissions, to demonstrate that the buildings were in lawful agricultural use during the relevant period. The agricultural activities identified comprise fertiliser storage, pesticide storage, agricultural lime deliveries, potato and carrot grading, machinery storage and sheep husbandry.

37. The initial statement and subsequent statutory declaration from [redacted], the Farm Manager, refer to the following matters, which I consider in turn:

    a) The agricultural uses described by the Farm Manager are said to have taken place between [redacted] and [redacted]. However, the exact dates of each use have not been provided. It is therefore not possible to establish which part of either relevant building was used or whether an identifiable part was in lawful use for a continuous period of at least six months within the relevant period from [redacted] to [redacted].

    b) ‘Approximately [redacted] tonnes of fertiliser was stored in the buildings between delivery, generally in [redacted] through to various applications from [redacted] to [redacted]’. The stated period could potentially extend over six

months. However, no delivery-to-removal sequence has been established for a particular year, and the evidence does not identify the particular building or part in which the fertiliser was stored, the precise dates of storage, or the GIA occupied. Reference is also made to [redacted] registration, but no evidence of registration has been provided and registration would not, by itself, establish the use or duration of use of an identifiable part. The evidence is therefore insufficient to establish qualifying use.

c) 'Buildings have in the past been used to keep sheep under cover, overnight prior to shearing (fleeces must be dry for shearing)'. The overnight housing of sheep before annual shearing would, without more, indicate a short-term and occasional use. The dates, duration, particular building or part used, and corresponding GIA are not specified.

d) Pesticide storage was stated to have taken place in the old farmhouse and does not therefore establish qualifying use of either relevant building.

e) Lime deliveries were stated to have been made to the yard and do not establish use of either relevant building.

f) Potato and carrot grading was stated to have been carried out in the yard and does not establish use of either relevant building.

g) It is stated that contractors required overnight storage for machinery. However, the evidence does not identify the building or part used, the dates or duration of storage, or the corresponding GIA. It does not therefore establish qualifying lawful use of an identifiable part as the information provided is vague and inconclusive.

h) The overnight housing of sheep before annual shearing would, without more, indicate a short-term use. The Appellant also states that sheep gates and shearing equipment were stored throughout the year. However, the evidence does not sufficiently identify the particular building or part used for that storage, the dates over which the storage continued, or the corresponding GIA. I am therefore unable to establish that an identifiable part of a relevant building was in qualifying lawful use.

38. The final representation submitted by the Appellant provides greater specificity by referring to Unit [redacted] and two parts of the U-shaped building. However, those statements are not contained in a further statutory declaration and are not supported by an annotated plan identifying the exact parts relied upon. The evidence still does not establish the nature and dates of each use and whether it continued for a qualifying six-month period.

39. To summarise, I find that the evidence is generally not sufficiently specific and is therefore inconclusive; it does not sufficiently identify the building, establish the nature and precise dates of that use (over a continuous period of at least six months within

the relevant three-year period), nor distinguish retained from demolished floorspace, which is information required to establish the corresponding GIA.

Decision

40. Schedule 1 paragraph 1(8) provides that, where the CA does not have sufficient information, or information of sufficient quality, to establish that a relevant building is an in-use building, it may deem that building not to be an in-use building.

41. Schedule 1 paragraph 1(9) further provides that, where the CA does not have sufficient information, or information of sufficient quality, to establish whether part of a building falls within the definitions of KR or E, or to establish the GIA of that part, it may deem the GIA of the part in question to be zero.

42. Having considered all representations and evidence submitted by both parties, in accordance with Schedule 1 paragraph 1 (9) I am not satisfied that the information provided is of sufficient quality to establish the GIA of any part capable of inclusion within KR or E for the purposes of Schedule 1 paragraph 1(6).

43. Accordingly, no existing floorspace can be included within KR or E when calculating the deemed net area chargeable. The net area chargeable therefore remains [redacted] sqm. Applying the rural residential rate of £[redacted] per sqm and the applicable index figures of [redacted] and [redacted] produces a chargeable amount of £[redacted].

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

[redacted]
[redacted] **BSc(Hons) MRICS FAAV**
Valuation Office
21 September 2026