

Appeal Decision

by Vanessa Rodrigues BSc(Hons) MRICS

an Appointed Person under the Community Infrastructure Regulations 2010 (as Amended)

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Appeal Ref: 1605762

Address: 39 Hawthorn Road, Newbury, Berkshire, RG14 1LB.

Proposed Development: *Erection of two 2 bed maisonettes.*

Planning permission details: *Granted by West Berkshire Council 16 May 2016 under reference: 16/00598/FULD*

Decision

I determine that the Community Infrastructure Levy (CIL) payable in this case should be £9,143.41 (nine thousand one hundred and forty three pounds and 41 pence).

Reasons

1. I have considered all the submissions made by the appellant, Mr David Thomas and the submissions made by the Collecting Authority (CA), West Berkshire Council.
2. Planning permission was granted for the proposed development on 16 May 2016.
3. The CA issued a CIL Liability Notice dated 19 July 2016 in the sum of £10,495.96. This was based on a net chargeable area of 132.2 sq m @ £75 per sq m.
4. The appellant requested a review of this charge under regulation 113 of the CIL Regulations 2010 (as amended) and the CA issued their response dated 10 August 2016 confirming the amount as set out in the original notice.
5. On 30 August 2016 the Valuation Office Agency received a CIL Appeal made under regulation 114 (chargeable amount) contending that the chargeable amount had been

incorrectly calculated as a consequence of the miscalculation of the chargeable area. The appellant contends that the CIL payable should be £8,587 based on a net chargeable area of 108.12 sq m. The appeal form was accompanied by a grounds of appeal statement and supporting documentation in Appendices 1 - 7.

6. The CA submitted representations dated 19 September 2016 to include 22 supporting documents.
7. The appellant submitted comments on the CA's representations on 25 September 2016.
8. The parties have identified that the sole area of disagreement is in relation to the calculation of the GIA of the chargeable area and specifically the treatment of roof space on the second floor. Plans show that a bedroom and bathroom is proposed to be built within the roof space on the second floor and to either side of this are low height void areas which are not shown as having any access or any flooring. The Appellant accepts that the appropriate rate is £75 per sq m and has made no representations regarding the CA's calculation of the indexation increase, which is required when calculating the appropriate charge in accordance with Regulation 40 of the CIL Regulations 2010 (as amended).
9. The CA's calculation is based upon a proposed gross internal area of 138.20 sq m less 6.0 sq m. The deduction of 6.0 sq m represents the porch of an original building that will be demolished and should therefore be offset against the proposed GIA in the calculation of the chargeable area. The CA have not provided detail of their calculation on a floor by floor basis but have stated that their calculation of the proposed GIA includes the void areas on the second floor and excludes void areas below stairwells.
10. The appellant's calculation is based on a net chargeable area of 108.12 sq m based on a Gross Internal Area (GIA) on a floor by floor basis as follows:-

Ground Floor: 56.65 sq m
First Floor: 44.64 sq m
Second Floor: 19.92 sq m
Less 7.0 sq m for void space below the two staircases and 6.0 sq m for the demolished porch.
11. The CIL Regulations do not define GIA so it is necessary to adopt a definition. The definition of GIA provided in the RICS Code of Measuring Practice (6th Edition) is the generally accepted method of calculation. Both parties have had regard to this definition in considering the extent of the floor space in this case.

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:-

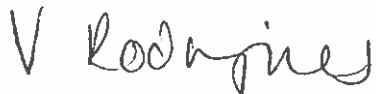
- Perimeter wall thicknesses and external projections
- External open-sided balconies, covered ways and fires
- Canopies
- Voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stored, and the like in residential property.

12. Based upon this definition the CA considers that the void loft spaces should be included in the GIA whereas the appellant considers that the void areas, being inaccessible (stated as being blocked by solid walls) and having no floor or ceiling should not be included. Neither party dispute that floor areas with less than 1.5 m in height should be included in GIA.
13. Having fully reviewed all the documentation and having regard to the RICS guidance I do not consider that the voids in the roof space should be included as part of the GIA for the purposes of the calculation of the chargeable area. These disputed void areas have no access and no flooring and therefore do not form part of the floor area on the second floor.
14. I have taken measurements from plans and I am satisfied that the appellant's areas are correct, albeit, despite that it not been disputed by either party, I do not consider that it is correct to deduct the void area beneath stair wells. I therefore consider that the net chargeable area should be 115.12 sq m (i.e. 108.12 sq m + 7.0 sq m).

15. On the evidence before me and based on the following calculation:

$$115.12 \text{ sq m} \times \text{£}75 \text{ per sq m} \times 1.059 = \text{£}9,143.41$$

I consider that the CIL payable in this case should be £9,143,41.



Vanessa Rodrigues BSc(Hons) MRICS
RICS Registered Valuer
Valuation Office Agency
11 October 2016