VALUATION TRIBUNAL SERVICE

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Valuation In Practice

VALUATION TRIBUNAL SERVICE

News Update

Council Tax and Students: Proposed amendments to the Council Tax (Discount Disregard) Order 1992

In August 2010, the Department for Communities and Local Government (CLG) and the Welsh Assembly Government (WAG) issued a joint consultation paper on amending the legislation to allow persons undertaking a full time course of education, with an educational establishment situated in any member state of the European Union, to be treated as a student for CT purposes in England and Wales. This consultation also addressed distance learning students in that they should also be capable of meeting the criteria of persons undertaking a full-time course.[The closing date for responses was 14 September 2010.]

Parliamentary Questions- Council Tax Empty Property (Discounts)

On 13 September 2010 Mr R Neill, Under Parliamentary Secretary of State at CLG explained that the data collected from 326 Billing Authorities (BAs) in October 2009 indicated:

- 167 BAs had stopped granting the 50% discount on empty dwellings after 6 months.
- 98 BAs either granted the 50% discount or less, depending on the circumstances as to why the property had been left empty.
- 61 BAs continued to grant the 50% discount.

Business rating news:

(*Source GL Hearn)*

RPI Inflation Announcement - Impact on Business Rates Liability

The Retail Prices Index (RPI) for September 2010, the month normally used to set the Uniform Business Rate (UBR), showed a 4.6% increase over the preceding September. This would mean that if the UBR were to increase in line with this, then the small business UBR for England would increase from 40.7p to 42.6p.

Extension of Small Business Rate Relief

The Government announced a one year 'freeze' in business rates for some small companies from 1 October 2010. Businesses with a rateable value (RV) of up to £6,000 will not have to pay any rates at all for 12 months, declining on a sliding scale to 0% relief at RV £12,000.

The threshold for:

- Rural single petrol stations and pubs is £12,500.
- A single rural shop, general store or post office is £8,500 RV.
- Discretionary rural rate relief is £16,500 RV.
- Relief for stud farms is £4,200 RV.

2005 Rating List appeals

The Valuation Office Agency (VOA) received over 100,000 proposals in March 2010.

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Special points of interest:

- *VT decision-Rating of former police HQ in Bradford—Page 7*
- *VT decision—NUM HQ– request for deletion —Page 9*

Decisions from Higher Courts

Council Tax Valuation – R (on the application of Burke) v Broomhead (LO) CO/651/2006 HC

This was an appeal arising from a decision given by the London North West Valuation Tribunal (VT) (pre VTE) on the grounds that:

a. the VT wrongly interpreted the valuation evidence presented to it;

b. the VT made a finding of fact that the dwelling was repairable at reasonable expense, when the unchallenged evidence of experts had proven otherwise;

c. on the material date, the property was the subject of a Compulsory Purchase Order, which would have affected its potential sale value; and

d. the VT's reasons for its decision were not intelligible and did not deal with the substance of the case.

However, when the matter was heard by the High Court, the appellant was no longer reliant on ground (c).

The appellant was the owner of a five storey Grade 2 listed Georgian terraced house in Camden, London. The second floor accommodation was used for business purposes and was shown as a separate entry in the rating list. The domestic accommodation in the property was on the lower ground, ground, first and third floors and had been entered in the Valuation List with a Band G (composite), with effect from 1 April 1993. The appellant sought Band A (nil valuation) effective from 1 April 1995, the date from which the second floor was separately assessed for rating.

The VT determined an assessment of Band F (composite) with effect from 1 April 1995.

Mr Burke's appeal to the High Court against the VT's decision was dismissed for the following reasons:

◊ It could not be disputed that the appeal dwelling was a hereditament for which a separate entry should be shown in the valuation list. In any event, Mr Burke occupied it.

◊ The VT had taken into account all of the evidence presented to it and had determined that the appeal property was capable of repair at reasonable cost. Counsel for the listing officer (LO) had submitted that the statutory assumption as to reasonable repair, gave little scope for considering the actual state of repair. In any event, some of the repair costs related to planned conversion works to put parts of the property to alternative use and therefore these fell to be disregarded.

◊ The High Court found the reasons for the decision to be lucid and it was clear from them why the VT had come to the conclusions that it did. Moreover, no error of law had been committed.

Council tax banding- R (On the application of Bolger) V Surrey VT & HM Revenues & Customs [2009]

Following the Surrey VT's determination that the appeal dwelling should remain in Band F, Mr Bolger applied for a judicial review, citing guidance issued by the VT as the reason:

"*If you think the VT has acted outside of its powers in making the decision, or that it did not act correctly at the hearing, you can apply to the High Court for a judicial review*".

It was pointed out by Counsel for the LO that this would only follow if there had been a jurisdictional error or procedural error amounting to a breach of natural justice and would not interfere or impugn a decision of the VT itself.

The High Court held that as Mr Bolger disagreed with the VT's decision itself, particularly the weight it had attached to comparables, the matter did not fall within the public law aspect and refused the application for judicial review.

Rating – Valuation of a Car Showroom - Vines Ltd v de Mauny (VO) RA/3/2008

The appeal property was a car showroom occupied by a BMW/ Mini dealership in Redhill, Surrey. The appeal to the Upper Tribunal (Lands Chamber) was made by the ratepayer against the Surrey VT's decision to reduce the assessment of the appeal property from £347,500 RV to £307,000 RV, with effect from 14 May 2005. The ratepayer challenged this decision, seeking a reduction to £220,000 RV.

The issues in dispute related to:

a. The correct basis of assessment, in terms of main space (ITMS). The VT

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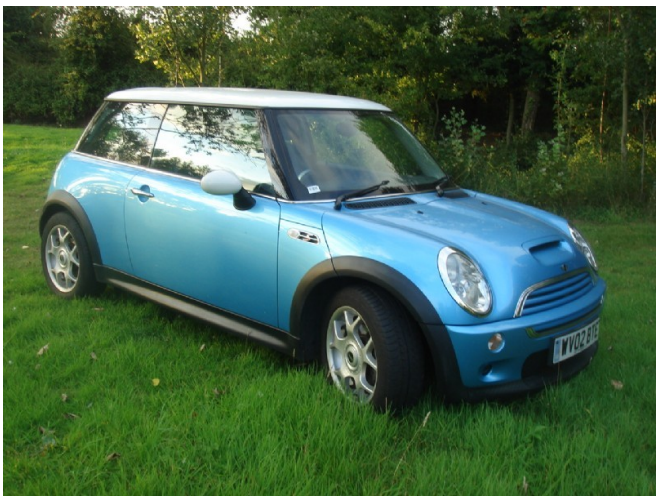


had determined a rate of £160/m², which the VO defended, whilst the ratepayer sought a reduced basis of £125/m². (Where appropriate, these rates were uplifted by 5% to reflect the existence of air conditioning.)

b. Whether the Mini showroom should be assessed at a lower rate than the BMW showroom because, as the ratepayer's representative had argued, it was lower in height and had less visual impact and did not face directly onto the road.

c. The valuation of the valet "shed" building. The ratepayer's representative had valued this at 40% of the main space price; the VO used 45% in line with the main workshop.

d. Whether there should be an allowance for quantum.

e. Whether there should be any adjustment for masking.

In considering the issues, N J Rose FRICS determined that there was no settled tone for the comparable properties upon which the ratepayer's representative relied. The most reliable piece of comparable evidence related to another car showroom in Redhill, where the rent devalued to £189/m² ITMS, which supported the VO's valuation.

There was no justification for any difference in value between the Mini and BMW showrooms, as both premises were of optimum size and height to cater for the brands, and their specifications were dictated by BMW. Although the Mini showroom was at right angles to the road, its significant flank showroom window faced the A23.

The Upper Tribunal upheld the VO's relativity of 45% for the valet shed, considering it broadly similar in nature to the main workshop, but granted no allowance for quality or masking (given that the appeal property was situated in a prominent position off the A23). The VT's valuation of £307,000 RV was confirmed.

It is interesting to note that in weighing up the comparable evidence, the Upper Tribunal supported the ratepayer's representative's view that the level of rent determined following a review by an arbitrator was not admissible as evidence and therefore no weight was placed on it.

Rating- Wragg v Harwood (Valuation Officer)(VO) [2010]

This appeal examined whether the VO had the power to serve a notice on 14 February 2006 to backdate an increase in the appeal property's RV to 1 October 2001, the date when it was held that alterations had been made to the appeal property.

The appeal property was a hairdresser's shop in Sheffield, in the 2000 rating list at £2,700 RV. The VO had inspected the appeal property on 22 October 2005, at which time it had been discovered that the shop had been extended into areas that had formerly been in domestic use. Therefore, the notice was served to increase the assessment to £6,300 RV, with effect from 1 October 2001.

The appellants (who had taken out a lease in December 2001) pointed to the unfairness of the situation and that they had been misled by the landlord: They had been unaware that changes had been made to the property and it was possible that the works had been carried out without either planning consent or building regulations approval. For this reason they believed that their lease had been invalidated and they should not be liable to pay backdated rates.

The powers to backdate were highlighted by the VO (regulation 13 A (3) & (4) of The Non-Domestic Rating (Alteration of Lists & Appeals) Regulations 1993, as amended) and that this applied, as a new and separately identifiable hereditament had been created by the landlord. The regulations also made it clear that in such cases, the increase had to take effect from the date on which the circumstances giving rise to the alteration had occurred, which was held to have been 1 October 2001.

Judge Mole QC dismissed the appeal as issues concerning the legality of the lease were matters to be taken up with the landlord.

Decisions from Higher Courts

Rating- Lands Tribunal for Scotland

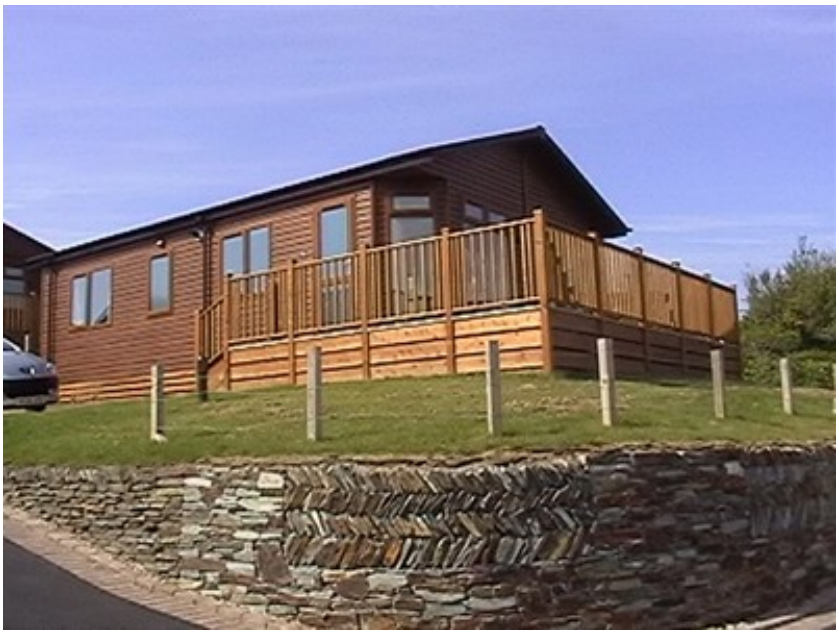
Coylumbridge Highland Lodges Club (Trustees) v Highland & Western Isles Valuation Joint Board [2010]

This case addressed whether timeshare units should be valued as:

◊ self catering accommodation, as contended by the ratepayers; or

◊ under a scheme based on rental evidence obtained from dwelling houses, as the assessor contended.

The LT for Scotland held the timeshare units must be valued under a scheme based on rental evidence obtained from dwelling houses because:



- In Phases 1-6, there was very low incidence of letting (no more than 3 weeks per year).
- In Phase 7, there was a greater incidence of letting (around 21 weeks per year) due to the amount of unsold weeks in this part of the development. However, the LT for Scotland held they should be categorised in the same way as the others, forming part of the same timeshare resort.

Interesting VT Decisions

Council tax liability

Class F- West Yorkshire

The panel was asked to determine whether a bungalow that had been Mrs L's sole residence at the time of her death could qualify for Class F of The Council Tax (Exempt Dwellings) Order 1992, as amended. This exemption applies where the deceased person had a freehold or leasehold interest in a dwelling or was a tenant of the property.

Mrs L had transferred ownership of the appeal property to a Trust in the 1990s to protect it from the family's business assets. As Mrs L had continued to live in it, the appeal property had been regarded as one of her assets for inheritance tax purposes. The Trustees included an independent financial adviser, a solicitor and Mrs L's daughter. Whilst the names of all of the Trustees appeared on the Land Registry as the owners, the legal owner was Mrs L's daughter.

The executor referred to advice obtained from Epsom Ewell Borough Council (BC, which indicated that the property only had to form part of the deceased person's estate to qualify for Class F exemption. He explained that in cases where the ownership rights were transferred, but the person remained in possession of the asset, the value had to be considered as forming part of her estate. Therefore, a sum of £260,000 had been included to reflect the value of the bungalow at the time of Mrs L's death. Accordingly, as the appeal property had been included in the estate, his request for an exemption met the spirit of the law.

(Continued on page 5)

Interesting VT decisions continued

The billing authority (BA) rejected the application on the grounds:

- The appeal property was owned by the Trust and, in line with Section 6 of The Local Government Finance Act 1992; liability to pay council tax where no one was resident fell on the owners.

- From the date of Mrs L's death, the Trust had been able to use the property, despite an ongoing probate process, as the appeal property had not constituted part of Mrs L's will.

- Regard had to be had to the statutory definition; the information on Epsom Ewell BC's website was neither lawful nor correct.

The panel noted that the statutory definition of Class F made clear it was expressly given where the deceased person had held a freehold/leasehold interest in the dwelling or there was an ongoing liability to pay rent for the property after the deceased person's death; none of which applied in this case. Additionally, for an exemption to apply there had to be no other 'qualifying individual' in respect of a dwelling; in the case in question there was another qualifying person; the Trust.

The panel agreed that the information given on the Epsom Ewell BC's website did not provide a complete picture, only a generality that would cover 99% of cases where a person had died leaving their former home unoccupied; it was wrong to assume it applied to this case

The panel acknowledged that, as Mrs L's granddaughter had moved into the appeal property before probate had been granted, this demonstrated that the property had not constituted part of the will and the Trust had complete control over the appeal property from the date of death.

Therefore the appeal was dismissed.

Council Tax Valuation

Council tax banding- reasonable state of repair- Derbyshire

These appeals challenged the band A entries of eight properties owned by Hardwick Nominees Ltd, who sought their deletion on the grounds that major renovations were required. All utilities and services had been removed and it was therefore argued they were not capable of beneficial occupation.

The LO cited Section 3 of the Local Government Finance Act 1992/section 115 of the General Rate Act 1967, which set out that a property should remain in the valuation list, if it would have fallen to be a separate item in the old rating list.

Each was a two bedroom terraced house, structurally sound but in disrepair. Whilst the LO accepted that none was currently habitable, stripped of kitchens and bathrooms, the plumbing was still in place and other properties on the same row were occupied.

The LO also drew attention to:

◊ The statutory assumptions that a property had to be in a reasonable state of repair having regard to its age, locality and character.

◊ *Saunders v Maltby (VO) [1976],* which indicated that only in cases where the cost of repairs were out of all proportion with the value of the house, was it to be assumed that the repairs would not be done.

◊ If repaired the appeal properties would have a value of around £50,000- £55,000.

◊ A letter from the local council in 2005, which set out the terms of the grant available to the appellant at that time and indicated the cost of repairs had been around £15,000 per dwelling.

The appellant, a building contractor, had purchased the appeal properties in 1978 and placed them in trust for his children and grandchildren. The appeal properties were located in a former mining village where there was little housing demand. All of the appeal properties had been boarded up as a condition of a planning notice.

The appellant explained that none of the repairs had been undertaken in 2005, as the council had only offered a grant of £5,000. Also, conditions had changed in the last five years. Based on his 40 years' experience in the building trade, he estimated the repair costs would now be £30,000 per dwelling, to reflect the increase in cost of the work and also current day standards of finish. He had concluded that it was uneconomic to repair, as the

present day cost of the land would be £30,000 per plot and, in a repaired state, there was evidence they would only be worth £60,000 each. He also pointed to a decision that he had received in 2002 from the Derbyshire VT, which suggested that the appeal properties had been close to meeting the criteria then; he considered with the passage of time and further deterioration, the necessary criteria would now be met.

(Continued on page 6)

Interesting VT decisions continued

In dismissing the appeals, the panel noted:

- The appeal properties were far from being derelict. External photographs showed them to have sound walls and roofs.
- They would have appeared as separate items in the old rating list.
- The only detailed costings for the repairs were those produced by the council in 2005, of £15,000 per property.
- The Council Tax (Situation & Valuation of Dwellings) Regulations 1992, set out that in banding a property it had to be assumed to be in a reasonable state of repair and R *v East Sussex VT ex parte Silverstone [1996]* indicated that the assumptions prescribed by the Act were mandatory.
- The existence of an exemption under Class A of The Council Tax (Exempt Dwellings) Order 1992, indicated that properties requiring major repair works to render them habitable should remain in the valuation list, with 12 months given to allow the works to be undertaken.
- The properties had been placed in the lowest band (A), which covers properties with any value between £1 and £40,000.

A full copy of this decision can be found on the VTS' website-see appeal number 1010552319/042CAD

Banding of an annexe- North Yorkshire

Should a converted garage, providing a living room, two bedrooms, 'kitchen' and bathroom, be banded separately, as a unit of separate living accommodation, under the disaggregation provisions set out Article 3 of The Council Tax (Chargeable Dwellings) Order 1992, as amended?

The annexe had been built to provide accommodation for the appellant's mother in law but she had been too ill to move into it. Changes were therefore made to the plans, which included providing a second utility room for the main house rather than a second kitchen. No cooker, cooker point or extractor fan was put in and the small sink and wall units were relatively cheap.

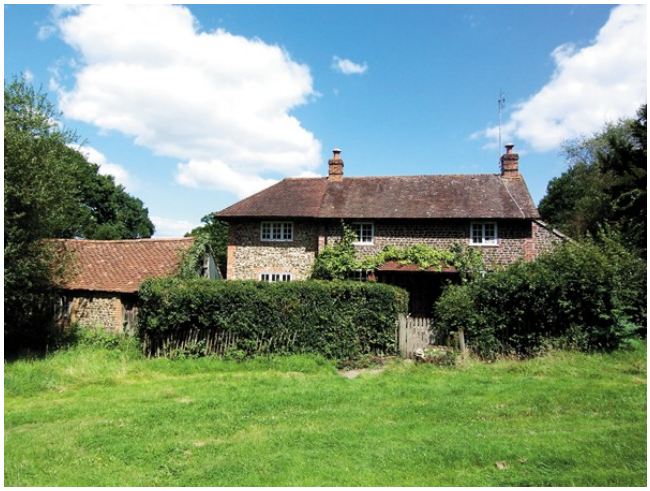
The appellant drew particular attention to:

- a decision made by Oxfordshire VT in 2007, where the presence of a second kitchen had been held not to create a separate unit of accommodation;
- planning permission restricting occupation to members of his family;
- the properties' services were inextricably linked;
- the annexe had no cooking facilities;
- no boundaries could be defined;
- the extension merely balanced what had previously been a bottom heavy house; and
- the two bandings on the property would necessitate his home to be valued and banded as a pair of semi detached houses.

The LO cited relevant case law, which held that factors such as restrictions on occupation by planning, practicality of sale, shared services and lack of separate access were irrelevant. In his opinion the room was clearly one in which food could be prepared and produced a copy of the current marketing particulars for the property, noting that the estate agent had drawn attention to the annexe's potential to provide self-contained accommodation.

Whilst accepting that the annexe formed an integral part of the appellant's home, the panel did not consider that the disaggregation provisions meant that if more than one band was placed on a property it became two properties, rather it meant that it provided more than one area of separate living accommodation. In reality the two 'dwellings' were under single ownership and control, the services were interconnected and the appellant determined any occupation. Therefore, it was no way akin to a pair of semi detached houses.

The panel found the kitchen to be more than partially equipped for the required purpose; the lack of a cooker, cooker point and extractor fan were minor considerations.



The panel also agreed with the LO that the cost of the kitchen units was irrelevant, their presence was of greater importance.

In referring to the decision made by the Oxfordshire VT the panel noted that it was not on all fours with the current case.

A full copy of this decision can be found on the VTS website – see appeal No 2710569322/108CAD

Interesting VT decisions continued

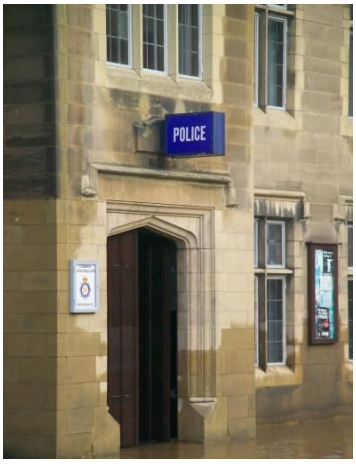
Non-domestic cases

Rating of a former Police headquarters- Bradford, West Yorkshire

The appeal had been made on the grounds of a material change and challenged the appeal property's entry in the rating list, from 26 February 2007: The grounds being that the former police headquarters became functionally and economically obsolete, when the Police Authority (the only possible occupier) had vacated it and moved to new headquarters in Bradford. The size of the appeal property was 8,000m².

In seeking a revised assessment of £165,000 RV, the appellant's representative drew attention to:

- The VO's assessment on the appeal property of 'offices' at £510,000 RV and valuation of the cells (which remained in the Magistrates Court's control) at £57,500 RV, produced a total value that was far greater than the £485,000 RV assessment for the original police station.
- Valuing the property as 'offices' went against the principle of *rebus sic stantibus* (as it stands). It had many specialised facilities such as custody suites, identification parades, examination suites and major incident facilities (used in the Yorkshire Ripper enquiry), that made it still identifiable as a former 1970's police station. Its third floor also had lockers, changing rooms, a kitchen/canteen, a licensed social club and a gym with a sprung badminton court.
- A former university building, fire station and casino in the West Yorkshire area had had nominal values attached to them by the VO to reflect the value of specialised buildings that were at the end of their life. Some of these had also included office blocks. However, a different approach had been taken in respect of the appeal property.
- Despite marketing the building as a whole and also offering to let it out in units of 500m² or more, the only tenant found was a film company who wanted a 1970's office building as a film set. The company had only been prepared to take the property on a one year lease, at a nil rent, with no repairing liability; the tenant agreeing to pay all rates and utility costs during the term of their lease. This equated to occupancy costs of £236,895, which the appellant's representative calculated to give a rental/



rateable value of £165,000 (apportioning the costs between rent and rates).

- The VO's own rating manual unequivocally stated that purpose built police stations were not office buildings and should not be valued as offices.
- Eventually the whole site would be demolished when the Bradford Regeneration Scheme regained its funding and the Magistrates' Court built new cells. Until then, the appeal property should be described and valued as a 'former police station'. Moreover, had it not been for the existence of the lease from the film company, he would have been seeking a nominal value.

The VO explained that, on inspection in April 2007, the property had been found to be in a reasonable condition and capable of occupation, with a significant proportion of office space on the ground and upper floors.

The VO cast doubt on whether the appeal property had ever been properly marketed, and considered that potential occupiers may have been put off by the three-year term lettings that were being offered, given that the property at some time in the future would be completely demolished.

The VO did not consider this a unique or specialist building and stated that other large office complexes similarly included lecture rooms, canteens and recreational facilities. For this reason he had valued it at £63/m², in line with council offices of a similar size and age, located nearby. He believed that this property had always been valued in line with offices; he was confident that the original assessment as a police station had not been lower as a result of being valued by the contractor's basis.

The VO pointed out that whilst the northern part of the appeal property had been demolished in December 2009 (RV reduced to £224,000); a team of 33 contractors for the regeneration scheme now occupied the remaining building of 3,687m², on unknown terms.

In reaching the decision to allow the appeal at £165,000 RV and description of 'former police station', the panel considered:

- It was clear that the property was still identifiable as a former police headquarters. Although accepting that the cells had been separately assessed, it still retained a significant amount of space that would not be conducive or normally

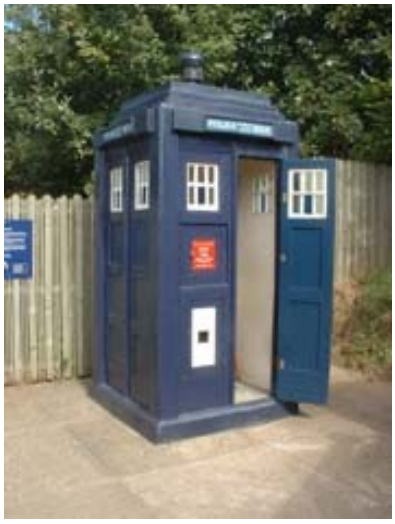
(*Continued on page 8)*

Interesting VT decisions continued

attached to office accommodation.

◊ Even if it could be put to some office use, there was no evidence as to what the police station's original assessment of £485,000 RV, had been based on or why, following the removal of its cells, its assessment had increased to £510,000.

◊ The stance taken by the VO appeared to be at odds with its treatment of former specialised



buildings in the area. A building of 8,000 m² would have a limited market, and any prospective tenant was likely to be deterred by its dated nature. However, it was clear that the appeal property still had a value.

◊ The marketing strategy undertaken had secured the only other potential occupier, the film company. (It was felt that the current occupiers, the firm that was demolishing the site, would not need a building of 3,687m² and its occupation as a site office probably stemmed from the fact that it was unable to be demolished/ put to any other use.)

◊ Whilst accepting the limitations of the appellant's representative basing the 'rent' on the film company's operating costs, this was the best evidence of value. The panel concluded that it was highly unlikely that a prospective tenant could have been found to pay £510,000 per annum for an unimproved 1970's office building of 8,000m², let alone one that had been a former police station.

A full copy of this decision is available on the VTS website- see appeal no. 470515676731/539N05

Valuation of hybrid offices- Leeds, West Yorkshire

This appeal followed a notice that had been served on the appeal property to increase its assessment from £71,000 RV (£84/m²) to £120,000 RV (£139.65/m²), to bring it into line with values attached to purpose built offices in the locality. The appellant's representative sought a reduction to £55,000 RV, in line with its passing rent as a warehouse.

In reaching the decision to reduce the assessment back to £71,000 RV, the panel determined that the appeal property was neither an industrial warehouse nor purpose built offices.

The panel agreed with the VO that its current mode of occupation, by a computer software company, was in line with office activities. Therefore, the description of 'Offices & Premises' was correct.

It was also clear that the building had been adapted. Additional windows had been put in and it had been changed internally by the addition of suspended ceilings, partitioning and comfort cooling.

The panel attached little weight to the passing rent on the appeal property, as:

◊ It was unknown what alterations had been made by the current tenant, the value of which could not be reflected under the terms of the lease.

◊ The passing rent had to envisage its use as an industrial warehouse within Use Classes B1/B2 and B8 of the Town and Country Planning (Use Classes) Order 1987, which the panel agreed with the VO, was not on all fours with its current use.

After an inspection, the panel concluded that whilst the adaptations had created offices that were of a higher value than those normally attached to industrial space, it would be extremely unlikely that a hypothetical landlord and tenant would agree the same level of rent for a modern purpose built office. There were areas, especially the training rooms and canteen, where the amount of natural light was so poor that artificial lights were needed to even see into the rooms.

The panel considered the VO had erred in increasing the assessment to bring it into line with other purpose built offices in the locality, without having first carried out internal inspections of these properties to ascertain that he was comparing like with like.

Ultimately the panel considered the original rate that had been applied to the offices of £84/m² was fair and reasonable, reflecting that they were of a higher standard than units on the same industrial estate, whose office spaces had been valued at rates between £46.74/m² and £63.18/m².

In respect of any value added by the comfort cooling system in the appeal property, the appellant's representative acknowledged that a definitive position would not be known until the outcome of the case at the Upper Tribunal. However, he did not want the case to be adjourned, due to his belief that the VTE decision on Unit A/B West Yorkshire Retail Park, Batley, had been correct (in having regard to costings rather than

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applying percentage uplifts) and that his client was pressing them to reduce the increased liability that had arisen since the service of the VO's notice.

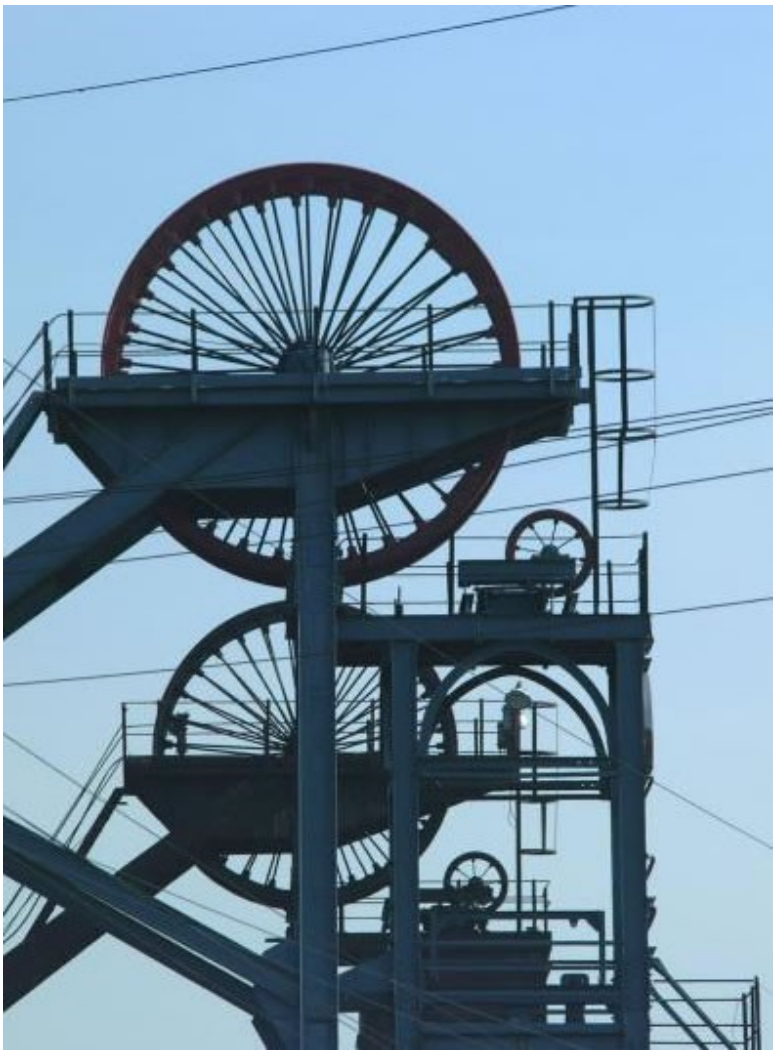
Irrespective of the outstanding case at the Upper Tribunal, the panel heard from the VO that the application of 5% uplift was a default position and if the actual costs were produced, he would value it in line with the contractor's basis. The appellant's representative had only provided limited evidence in respect of the value of the cassettes and it would be necessary for the cost of the condensers and other accessories, to be included as set out in The Valuation for Rating (Plant & Machinery) (England) Regulations SI 2000/540. Therefore, the panel could do no more than apply the 5% uplift in the absence of alternative evidence.

A full copy of this decision is available on the VTS' website- See appeal no. 472014470963/244N05

National Union of Miners (NUM) Headquarters- request for deletion of assessment- Sheffield

The issue in this case was whether the cost of repairs required at the property, which had been used as the NUM headquarters (Offices, £186,000 RV), would be considered to be uneconomic and allow the property to be deleted from the rating list.

The panel noted that the reports produced by the parties differed widely in both their nature and extent of the work necessary and the cost of the repairs: The cost of the works outlined by the appellant's representative was £950,000 and by the VO at £380,000. However, the panel formed the view that the appellant's representative's costs included improvements and the replacement of items that appeared to be capable of repair. After considering the schedules produced, the panel considered



that those produced by the VO more fairly reflect the repairs required, having regard to its age, character and use.

The panel noted that from 2001-02, the appeal property had a limited life; the threat of demolition had been ongoing for a number of years and it was likely that a compulsory purchase order (CPO) would be issued. After considering the Lands Tribunal decision of *Prodorite V Clark (VO) [1991]* (which concerned a draft CPO) and the House of Lords decision *Dawkins (VO) v Ash Bros and Heaton Ltd [1969]* (where a vacation date had been set and required within a certain period), the panel concluded that the threat of a CPO would not have an effect on the use and enjoyment of the appeal property, therefore, this was not a reason to delete it from the rating list.

The panel also looked at *Saunders v Maltby (VO) [1976]* which indicated that regard needed to be had to the costs of repair, in terms of its anticipated life. Whilst it was difficult to estimate how long the appeal property would remain in existence, no CPO had been served to date. Therefore, the panel was satisfied that the hypothetical tenant would have a reasonable prospect of continuing in occupation and the hypothetical landlord would have had a reasonable length of time to recoup his repair costs.

In 2006, the parties had agreed the appeal property's entry in the 2005 rating list and there was no evidence to prove that the structural condition of the property or the state of its repair had deteriorated significantly, since the agreement had been reached. Consequently, the appeal was dismissed.

A copy of this decision is available on the VTS' website –see appeal no. 442015635796/539N05

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