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VALUATION TRIBUNAL SERVICE

Valuation In Practice

News in Brief

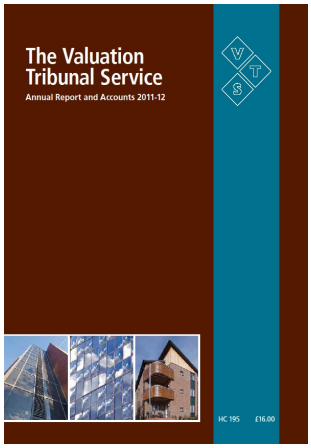
Appeal Statistics highlights, 2011-12

- The number of fully contested cases requiring a reasoned decision rose by 45% over the previous year.
- 75% of NNDR decisions were issued within one month of the hearing.
- 92% of council tax appeals had a hearing date within five months of receiving them.
- We administered almost 20,000 Statements of Case.

These and other statistics and a report of our performance against key objectives can be found in the -

VTS Annual Report & Accounts 2011-12.

Laid in Parliament on 25 June 2012, this is now available on our website at www.valuationtribunal.gov.uk/AnnualReport2011-12.aspx.



Preliminary decisions

The VTE President's preliminary decisions on the question of invalidity of proposals are available on our website. Click on the 'Publications' tab at the top of any page and then on the option 'VTE decisions'. This takes you to a page where such judgments can be found. We also have a summary of these cases on page 4 of this issue of ViP.

Guidance Booklets

Our booklets for both council tax liability and banding appeals have recently been revised and can be downloaded from the website.

DCLG Council Tax Information Letter 1/2012 underlines the requirement for military Service personnel living in Service accommodation to make 'Contributions in Lieu of Council Tax'. This is to be taken into account when considering the issue of sole or main residence.

VTE Practice Statements

C1 Reviewing and setting aside decisions Revised with effect from 1 May 2012 to clarify what is meant by the grounds 'procedural irregularity' and what is to be included in an application for a review of decision.

C2 Applications for reinstatement following striking out and withdrawal and lifting of a bar Amended with effect from 1 June 2012 to set out the circumstances in which such applications can be made and give examples of reasons that may explain or excuse non-compliance. It highlights the 5pm deadline for receipt of Statements of Case and that it is for the applicant to satisfy the senior member about the reasons and to provide adequate supporting documentation and proof.

All Practice Statements are available to download from our website.
Never miss Practice Statement news; sign up to our email alerts at
http://www.valuationtribunal.gov.uk/email/pract-state.asp?mail=5

Inside this issue:

Topics

Department for Communities and Local Government (DCLG) has published a number of documents relating to the Business Rates Retention Scheme and on Localising Council Tax Support. The latter is of particular interest to the Valuation Tribunal as appeals against decisions on Council Tax Support will be added to the VTE's jurisdiction. These documents can be accessed via www.communities.gov.uk.

Business Rates Retention Scheme:

- ◊ The economic benefits of local business rates retention.
- ◊ The central and local shares of business rates. A Statement of Intent.
- ◊ Renewable Energy Projects.
- ◊ Pooling Prospectus.
- ◊ The Safety Net and Levy. A Statement of Intent.
- ◊ A Step-by step Guide.
- ◊ Plain English Guide.
- ◊ BRIL 7/2012 Technical Consultation on Business Rates Retention.
- ◊ Technical Consultation.

Technical Reform to Council Tax— Summary of responses report.

Localising Support for Council Tax.

- ◊ A Statement of Intent.
- ◊ Funding arrangements consultation.
- ◊ Vulnerable people.
- ◊ Work incentives.
- ◊ Impact assessment.
- ◊ Statement of Intent on information sharing and powers to tackle fraud.
- ◊ Draft Council Tax Reduction Schemes (Default Scheme) Regulations.
- ◊ Draft Council Tax Reduction Schemes (Prescribed Requirements) Reg'ns.
- ◊ Explanatory Note on Draft Reg'ns.

The Local Government Finance Bill is currently in debate. This will introduce a new type of appeal against council tax reductions, replacing council tax benefit, that will come into effect on 1 April 2013. The jurisdiction for hearing these appeals will fall to the VTE under Section 16 of the Local Government Finance Act 1992.

DCLG has also published **Collection rates and receipts of council tax and non-domestic rates in England for 2011-12**. This release is at www.communities.gov.uk/publications/corporate/statistics/collectionrates201112

Upper Tribunal (Property Chamber)

Appeal by Woolway (VO) RA 24/2010 , Tower Bridge House

This modern eight-storey office block is opposite the Tower of London. The appeal concerned two floors (levels 2 and 6) occupied by the same ratepayer but entered separately in the list. The ratepayer contended for merging the assessments from the date of occupation as there was a functional dependency between the floors, and for a 10% end allowance for fragmentation.

The VTE, with reference to *Gilbert (VO) v Hickinbottom & Sons Ltd* [1956], had determined that the development was contained in a single curtilage and that there was a link between the floors that was essential to its efficient working. The panel therefore concluded that the appeal properties formed a single hereditament and added that a 5% end allowance should be applied for the "relatively small inconvenience suffered".

The separate leases dated June 2007 show rents of £1,008,422 pa for level 2 and £1,053,010 rent for level 6. The respective rateable values (RVs) were £600,000 and £605,000.

Before the Upper Tribunal President, Mr Woolway argued that -

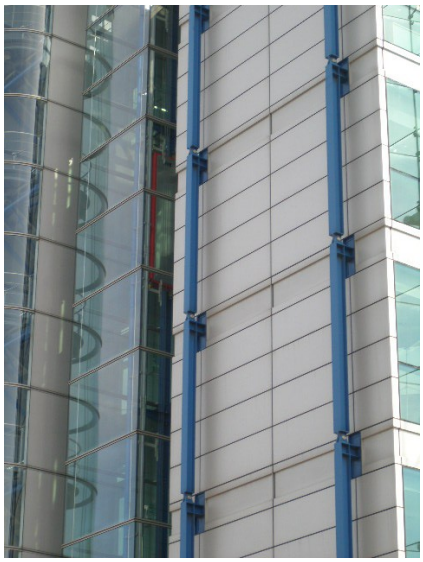
- ◊ the accommodation presumably met the occupier's cost criteria and suited their needs when they took the offices in 2007;
- ◊ the lift service was fast and the inconvenience to this occupier of being located on different floors was not materially different to the situation of another occupiers (of levels 1, 3, 4 and 5); despite a flow of personnel between the levels, proximity was not vital;
- ◊ 'curtilage' did not have the same relevance within an office building;
- ◊ there was no justification in any event for applying an allowance as there were "no perceived or operational difficulties for the actual or hypothetical occupier";
- ◊ it was VOA practice to treat individual floors as separate hereditaments because they were normally let separately.

Acknowledging *Gilbert v Hickinbottom* as the leading case on identification of the hereditament, the Lands Chamber President cautioned that it should not "be treated as establishing an incontrovertible formula" for this. The notion of curtilage was not helpful in this regard in a modern office block and he considered that the VTE had then misapplied the rules derived from that case by going on to determine whether there was a functional link between the floors. The President pointed out that this test was only relevant where the premises were not within the same curtilage.

(continued on page 3)

Decisions from Higher Courts

(continued from page 2)



Referring to the VOA's practice of treating individual floors as separate hereditaments because they were normally let separately, the President gave examples of where this could produce values that did not reflect fairly "the ratepayer's occupation and the relative worth of different occupancies within the building". Mr Bartlett underlined that, for occupied property, the VO must determine the occupier's unit of occupation. Though there may be separate leases for each floor, while in the same occupation, floors apart from each other in a modern office building should be treated as a single hereditament, the same as adjoining floors. The President determined that the two floors should be treated as a single hereditament and that no end allowance was warranted for the separation. The RV for the merged entry should be £1,205,000.

Cheale Meats Ltd v Ray (VO) RA 6/2010

Both parties appealed against a VTE decision that the lairage of the abattoir was not exempt, but which reduced the RV from £205,00 to £150,000. The panel had valued the abattoir in line with local industrial units, discounted by 20%. 'Lairage' is the name for the area where animals are housed before they are moved to the slaughter hall.

The appellant contended that this met the definition of agricultural buildings in the Local Government Finance Act 1988. To determine this it was necessary to establish whether the processes that went on there amounted to animal husbandry or were merely part of the industrial, slaughter process. The Lands Chamber found that the treatment of the animals there was not an agricultural operation, but conditioned the animals for slaughter. The lairage did not comprise agricultural buildings and so was not exempt.

The appellant had withdrawn a valuation by the contractor's test, seeking a nil rateable value, conceding that he could not seek a lower RV than shown in the proposal and argued for at the VTE (£50,000).

The Upper Tribunal found the best evidence to be settlements reached on 32 abattoirs in England and Wales, in particular those with similar location in relation to suppliers, markets and transport links, and of a similar size, age, condition, layout and facilities (including parking and storage land). Analysis on this basis produced 10 useful comparables and, from these, the Tribunal identified base values for accommodation (including parking) in the 1960s (£25/m²), 1970s (£28.50/m²) and 1990s (£36.50/m²). The appropriate value of surfaced storage land was considered to be £5/m² (rounded).

Lairage was determined to be 75% of the base value (in line with a VOA Practice Note), with a 15% increase on the base value for the packaging and processing space. The cattle slaughter area, not used since 2003, could not be excluded because it would have some value to a hypothetical tenant, but it was accepted that the prospects for this aspect of the business were poor at the avd. The relativity was to be 25% of base value.

The ratepayer's appeal was dismissed and the assessment determined at a higher RV of £170,000 from 1 April 2005.

Queens Bench Division, Administrative Court

London Borough of Harrow v Ayiku, CO/12720/2011

In November 2011, the VTE President determined that Ms Ayiku, the wife of foreign student, was not liable for council tax as the only non-student in a house that was otherwise exempt under Class N of the Council Tax (Exempt Dwellings) Order 1992, as amended. (ViP 23).

In arriving at his decision, the Hon Mr Justice Scales considered the terms of the Immigration Rules 1994 (made under the Immigration Act 1971), in force when the Order was amended. These stated that employment is prohibited except where the period of leave granted for the student's spouse is at least 12 months, but the recourse to public funds is denied in any case. He also looked at the civil servants' opinion, given in the DoE Council Tax Information Letter No3 1995, which supported the VTE's view that it was sufficient for either of the conditions to be satisfied.

The Hon Mr Justice Scales concluded that the VTE was correct to identify this use of "or" as disjunctive, both as a natural interpretation and because this was reinforced by the contextual rules and guidance in existence at the time the Order was amended.

Accepting that this could give rise to some oddities, he concluded that it would be even more strange if it were intended that a non-British spouse, who could not claim benefits and was unable to find employment (though permitted to try to), was liable to council tax and the penalties that would follow for non-payment.

The billing authority's appeal was dismissed.

Interesting VT decisions

Validity of proposals

The VTE President determined a preliminary matter in respect of an appeal made by Imperial Tobacco Group Ltd. Setting out the relevant regulations, he itemised the questions arising from these:

- ◊ What errors or omissions render a proposal invalid?
- ◊ What is the status of an 'invalid' proposal?
- ◊ Must the VO assert invalidity within the statutory four-week period?
- ◊ In what circumstances may they raise it outside this period?

The VOA contended that any departure from the requirements of the regulations (except possibly minor clerical errors) renders a proposal invalid, and that they then have discretion to disregard the invalidity, or issue an invalidity notice within four weeks, or assert the matter of invalidity later, at a hearing of the substantive case.

The appellants here argued that their error was not such as to render the proposal invalid and that even if it were, the VO did not have the right to raise the matter at the hearing. The error (in a proposal revised because of an earlier error) was that the rent was entered at £40,500 pa instead of £44,019 pa. This error was said to have arisen because of the complicated nature of the tenure arrangements, and the VO was informed of it nine days later. The VO did not issue a notice but said they would challenge validity at the hearing. This meant that the appellants could not make a fresh appeal at that time.

The difference between the rents was £3,519 and it was agreed between the parties that the rent was not a material factor.

The President referred to *R v Secretary of State for the Home Department, ex parte Jeyeanthan* [2000], in which Lord Woolf MR set three questions. Professor Zellick answered these as follows:

- ◊ Is the statutory requirement fulfilled if there has been substantial compliance with the requirement and has there been substantial compliance in the instant case? *Substantial compliance will normally suffice and it does in this case.*
- ◊ Is the non-compliance capable of being waived, and has it been in the instant case? *The VO may disregard errors and omissions but has not in this case.*
- ◊ If it is not capable of being waived or is not waived, then what is the consequence of non-compliance? *The consequence of non-compliance here (if it can be so characterised) is that the proposal is valid.*

The President found that, despite the error, the proposal was valid and so answered the four questions he set:

- ◊ Not every error or omission will render a proposal invalid. Some will be minor errors or omissions that can be regarded as *de minimis*; others will be in proposals where there has been substantial compliance and no deliberate attempt to mislead, affecting the VO's ability to consider the case.
- ◊ Even an invalid proposal may in some circumstances found a valid appeal;
- ◊ The VO has discretion to disregard the invalidity and this must be exercised reasonably, rationally and in accordance with the statutory scheme. But if they wish to take the invalidity point, this must be within the statutory time limit and the notice may be appealed against;
- ◊ There are some exceptions where it will be justified for the VO to assert invalidity at a hearing of the substantive appeal, but these are in circumscribed special circumstances (for example when the appeal has already been listed, or where matters come to light after the four-week period), but there is no general discretion giving him the option of either issuing the notice or raising the matter at a hearing.

The findings of this case were then applied to the case of Mayday Optical Co Ltd, whose appeal had earlier been struck out by a panel because their proposal was invalid. The President had reviewed and set aside this decision, on the basis that the appellant had not been forewarned that the VO would be seeking a strike out at the hearing, and this constituted a 'procedural irregularity'.

In this case, it had not been possible for the VO to serve a notice when she became aware of the discrepancy between the rents shown on the proposal (£9,500) and on the form of return (£10,000), as the four-week time limit had expired.

The appellant's representative had completed the proposal with a figure given to them by the appellant; the appellant himself had completed the form of return. It was clear that the representative did not check this with the appellant, even though they received a VTE order requiring documentary evidence of the rent.

The error amounted to 5%. Unlike the Imperial Tobacco case, the rent here was material. The appellant's representative had taken no steps to convince the President that this was not the kind of error that should be treated as giving rise to invalidity. However, on the basis that the VO had not exercised her discretion reasonably and rationally, the President held the proposal valid, despite the error.

This decision has been appealed to the Upper Tribunal.

The full decisions can be found on our website. Click on the 'Publications' tab at the top of any website page and then on the option 'VTE decisions'.

Valuation in Practice issue dates.

Our newsletter is published quarterly in January, April, July and October. You can sign up for an email alert telling you when a new issue has been published, by going to www.valuationtribunal.gov.uk/vip_newsletter.aspx.

Interesting VT decisions (continued)

NDR

Pharmacy within a health centre

For the 2005 rating list, the VOA had assessed pharmacies located within health centres at a premium, to reflect the higher rents paid for such properties. The value and rent was based in part on the size of the pharmacy but also reflected the number of doctors registered at the practice. They were valued on an overall basis of £200 per m² in the Bolton area.

Part of the valuation was derived from the fact that most pharmacies in or attached to health centres had a monopoly position, dispensing patients' prescriptions as they left the surgery.

The appeal property was in a health centre with 10 doctors. The appellant's representative complained that, because the surgery had two entrances, it was possible for some patients to leave the practice without going through the pharmacy, so only about 43% of prescriptions issued there were being processed. He referred to other pharmacies within health centres where all patients had to exit through the pharmacy, and felt that an allowance of 25% should be given for the appeal property. He also referred to the valuation scheme which indicated that storerooms should be taken at 50% of the main space price; the store in the subject property had been taken at 100%.

The VO pointed out that the property, let for £45,000 per annum from September 2005, devalued to £223 per m² and supported the price adopted of £200 per m² and the current RV of £38,000. He also referred to a schedule of six health centres in the locality where appeals had been agreed at £200/m², two with the same representative. He therefore argued that the tone was established. The VO accepted that the valuation scheme indicated store rooms could be taken at 50% of the main space price but stated that this was dependent on the quality. In this case the store was the same quality as the rest of the pharmacy (acknowledged by the representative) so he had valued it at 100% and the VTE panel agreed with this.

The VTE panel found the rent and comparables produced by the VO to be compelling evidence that the assessment was not excessive. It accepted that the property did not enjoy a monopoly, but as there was good access and parking at the front and rear, the two entrances might not be a disadvantage.
Full decision: 425016807744/541N05

Where we show an appeal number, this can be used to view the full decision on our website. Click on the Listings & Decisions tab and use the appeal number to search Decisions.

Doctors' Surgeries

A decision by a VTE Vice-President on purpose-built surgeries has been appealed to the Upper Tribunal. The decision concerned the correct method of valuation and rejected the use of rental information available because these were not open market rents, but were based on 'current market rents' (CMRs). CMRs are rents which the District Valuer considers might be reasonably expected to be paid and from his analysis, the Vice-President could not say with certainty that these meet the definition of rateable value.
The Receipts and Expenditure method was dismissed since surgeries provide a public service, whose dominant motive is not the generation of profit.
The Vice-President concluded that the appropriate method was the contractor's basis.
Full decision: 442019102715/257N05

Stables -Domestic or rateable

The hereditament was a stable, field shelter and paddock used for recreation purposes; the planning consent stated that the premises were only for domestic use. The area of dispute concerned the application of section 66 of the Local Government Finance Act. 1988 and the meaning of 'appurtenance' , which belongs to or is enjoyed with the associated living accommodation. The tests flow from the decision in *Martin v Hewitt* (which refers to a number of older authorities).

The first test was: Is the appurtenance within the curtilage of the dwelling? If the answer is yes, is it so linked to the dwelling that it would pass without further mention in a conveyance of the dwelling? Prior to the construction of the stables the appellant lived opposite, but now lived some 7 miles away. The panel therefore found that the stables were not enjoyed with the property that was her home.

The appellant asked, if the planning consent said the stables could only be used for domestic purposes, how could the VO decide they were not domestic? The VO submitted that, as planners and the VOA were working under different legislation, it was possible that both could be correct within their own remits. As this appeal sought to challenge the rating assessment, the panel was required to consider the situation under the provisions of the Local Government Finance Act 1988 and not planning law. The panel concluded that, as the stables did not meet the definition of domestic property, they must be assessed for non-domestic rates.
Full decision: 352018619449/022N05

Stables—agricultural tenancy and field margins

The subject property was part of a hereditament held on an agricultural tenancy, so no weight could be given to the rental evidence as it was on a different basis to the statutory assumptions defining rateable value. The VO had therefore drawn rental evidence and comparisons with other equine occupations. Rents including land for grazing, which was exempt, had to be adjusted accordingly.

The VO sought to include in the valuation 10.5 miles of 'field margins' because in the advertisement for this livery yard these tracks were described as 'private off road riding'. However, it was apparent that this was made up of different tracks or paths including public footpaths, permissive access for walking or cycling and standard access for agricultural machinery used on the land. The VTE panel determined that the use of these 'field margins' by the livery customers was a subsidiary use, their primary uses being for agricultural purposes and permitted public access. In the circumstances, they were taken out of the VO's valuation, which was otherwise accepted by the panel, reducing the RV from £12,000 to £9,750.
Full decision: 263016961834/036N10

NDR
Gliding Club

The assessments under appeal were entered in the 2005 rating list as (1) glider store and premises (hangar) at RV £3,500; and (2) clubhouse and premises at RV £810. There was a short distance between the two buildings but both were on the airfield. The clubhouse was not used for drinking and socialising. The proposal sought a merger of the two list entries.

The VTE panel held that the clubhouse and hangar were functionally essential to each other as there was a substantial degree of integration between them. They were therefore one hereditament.

The hangar did not enjoy any basic services, such as electricity, running water or toilet facilities. A reasonable person would expect such facilities to exist in the operation of a club. Electricity was used for flight simulations and recharging batteries; these activities took place in the clubhouse, along with the storage of parachutes. This made sense, as the batteries and parachutes could then stay on the premises.

These basic services and equipment were included on the British Gliding Association's list of requirements considered essential for the operation of the gliding club. Together, the clubhouse and hangar had one common purpose, namely to fulfil the needs of a gliding club. The clubhouse was the place for flight preparation and briefing pilots.

An agreement between the airfield owner and the club gave the appellant the right to access the whole of the airfield on the days they were permitted to use it.

In the panel's opinion, the clubhouse and hangar had a stronger link than the 'bakery' and 'repair depot' in *Gilbert (VO) v Hickinbottom and Sons Ltd* [1956], held by the Court of Appeal to be a single hereditament.

Like a golf course or a farm bisected by a public road, as referred to in *Gilbert* , the circumstances made this case one of those exceptions when it was reasonable to use some commonsense. Both the clubhouse and hangar fell within the fenced enclosure of the airfield and their physical separation was a short distance, which did not impair their common use. There was no public highway separating the buildings, and no public use of the land in between the buildings, recorded by the Civil Aviation Authority as disused ground.

Full decision: 091018568215/127N05

Shop, Hagley

The appeal was against the RV in the 2010 rating list and the issue was the value to be adopted for Zone A space. The figure contended for by the appellant's representative, based on his submissions resulted in an RV of £11,750. The VO considered that the existing RV of £14,000 was correct, from the evidence of nearby rents and comparables.

The rent passing on the appeal property was under negotiation at the time of the hearing, but had been agreed at £18,500 in April 2006. In support of his contention that the basic price should be £200/m² for Zone A, the appellant's representative referred to rental information from other retail properties in the same road, for which £200/m² to £225/m² had been used. He also considered that information proved that market conditions in the run up to the antecedent valuation date (avd, 1 April 2008) started to fall at the end of 2007 rather than September 2008, with the closure of the Lehman Brothers Bank.

The VO contended that his analysis of the rents of nearby comparables Supported a Zone A figure of £225. He also considered that the rent on the appeal property, when adjusted, equated to £296.95 pm² and so the Zone A figure was not excessive.

The panel was not persuaded that the appellant's representative's approach or figure was indicative of the general level of rents achievable at 1 April 2008. The rent appeared to be out of line with others and so was not a good indicator. Although the appellant's representative said that his client expected the new rent to be lower when it was finally agreed, the panel did not consider that, based on the evidence, the rent would have been lower at the avd. Nor was it persuaded that the effects of economic policy or recession leading up to that date conclusively affected the market conditions prevailing at the valuation date.

The VO conceded that some properties in the road, further from the centre, should have their Zone A price reduced to £200 m², but that this reduction would not extend to the appeal property. In the panel's opinion, based on both the rental and comparable evidence, the current Zone A price of £225 m² was not excessive.

An allowance was sought for the masking of the main space by a column and for hard frontage. The panel agreed with the VO that allowances are given if justified by the rental evidence available. In its opinion, although the rental on the appeal property was out of line and relatively high, no allowance appeared to be justified. Importantly, as the burden of proof lay with him, the appellant's representative had failed to substantiate the case that a lower assessment than that adopted by the VO was warranted. The rental evidence he provided had been superseded by the weight of evidence of other comparable properties in the locality.

The panel was satisfied that the current assessment was fair and reasonable and the appeal was dismissed.

Full decision: 180517722220/541N10

This decision has been appealed to the Upper Tribunal.

Interesting VT decisions (continued)

Council tax valuation

Helipad's affect on an area

The VTE panel heard two appeals relating to the material change brought about when a local hospital built a new building and placed a helipad on the top, in the hope of obtaining 'trauma' status.

The helipad first operated from November 2007, with restrictions on flight numbers and times. In September 2011 the local authority allowed night flights to operate and, while none had taken place, a number of appeals had been lodged citing this change and two had been made on the grounds of the installation of the helipad.

The panel, having been referred to the High Court decision *Chilton -Merryweather and Hunt and ORS [2008]*, agreed with the listing officer (LO) that the material change was the installation of the helipad as this had been a physical alteration and therefore it had to consider the locality in November 2007. The panel was unable to take account of any effect of the lifting of the restriction on night flights, as this was not a physical change.

The panel was provided with details to establish the value of the dwellings in 1991, prior to the construction of the helipad. From those values the panel considered whether the values had fallen sufficiently to warrant a reduction in banding. Both parties had established a similar 1991 value and a reduction of around 10% was required for a lower band. The LO provided sales in 1991 of properties close to the appeal dwellings but which were not affected by the helipad, and details of sales after the material change from both localities and argued that the differential had remained the same, so no band reduction was warranted. He admitted that there were very few sales but could give no reason for this.

The appellant provided details of sales at various points in time and adjusted these sales by the use of indices to come to the conclusion that a reduction of approximately 10% could be seen and that the lack of sales was because the properties could not be sold, due to the nuisance. The panel considered the best evidence was of actual sales and that indices gave figures that were too imprecise. As it had not been provided with any compelling evidence to support the contention of the appellant, the panel dismissed the appeals.

Full decision 1775603390/176CAD

Deletion

A Victorian semi detached house was purchased in 2008, having been empty for about a year. The previous occupier had been an old lady who had been unable to maintain or improve the house. It was in a very poor state of repair and the appellant sought a deletion from the list whilst the works were being completed.

A rear, single storey extension built in the 1960,s was found to be structurally dangerous and, as part of the renovation, was demolished and rebuilt to a different specification.

The owner applied for, and received, Class A exemption from the billing authority. At the end of the 12-month period, the works were still not complete and he argued that the property was changed; it was of a completely different character to the dwelling that had previously existed. Not only were repairs being done, but the property was being structurally altered and improved to modern standards. The total cost of the works was in excess of £50,000 (not including a cost for the appellant's time) and the valuation for insurance purposes was £120,000.

The panel dismissed the appeal; the hereditament test showed that the property should not be deleted from the list. The works were substantial but the panel considered that at the end of the exercise the appellant would have a modernised Victorian house. It had never been in a derelict condition and the character of the house was not substantially different. The cost of repairs was not an issue.

Full decision 1850605079/238CAD

Interesting VT decisions continued

Council tax liability

Who pays? Hierarchy of liability

An appellant had a property in East Sussex but due to his employment as a bursar at a school in West Sussex he was required to live in a property provided by that school. East Sussex billing authority (BA) accepted that the appellant had to live elsewhere due to his employment, but did not consider him eligible for the discount as the school paid the council tax at the property he was provided with.

The VTE panel referred to Schedule 1 (1) of The Council Tax (Prescribed Classes of Dwellings)(England) Regulations 2003 regarding job related discounts and the definition of a 'qualifying person' (the person liable to council tax). The panel also considered the hierarchy of liability set out in the Local Government Finance Act (LGFA) 1992.

The appeal was allowed. Although the school paid the council tax on the property they provided, the appellant was the liable person. The arrangement to pay the council tax was a matter between the appellant and school and did not detract from the provisions of the legislation.

Full decision: 1410M80973/148C

In Oxfordshire, an appellant argued that he should not be held solely liable for payment of the council tax as he was not employed. He requested that liability be shared with his non-dependant son and daughter, who both worked, lived at the property and contributed to the bills, and that the BA should amend their records so that his children were named on the bill.

The appellant was joint owner of the property with his former partner and therefore had a freehold interest. His partner could not be held liable as she lived and was held liable elsewhere.

The VTE panel was satisfied that the property was a chargeable dwelling and they had regard to Schedule 6 of the LGFA 1992. It was clear from the evidence that the appellant was resident and had a freehold interest in the property and therefore met the criteria under (2)(a). There was no evidence to suggest that his children had a legal interest in the property and the fact that they contributed to the bills did not affect or have any bearing on liability.

The appellant had referred to Section 18 of the Administration and Enforcement Regulations, which directed the billing authority (BA) to serve notice on every liable person, but the BA said that the agreement for his children to pay the council tax was an arrangement between them and not with the BA; it did not affect the fact that bills were issued to the liable person, in accordance with the LGFA. The panel found that the BA had served notice correctly on the liable person - the appellant - and dismissed the appeal.

Full decision: 3105M82713/221C

Student exemption –full time

This concerned whether a student registered on two 60-credit Open University (OU) courses could be said to meet the definition of a full-time student attending a college or university as defined in the Council tax (Discount Disregards) Order 1992, as amended. The OU was now accepted as a prescribed educational establishment (the requirement to attend the establishment now having been removed from the regulations), but a designated part-time institution, unable to issue exemption certificates for its students. The BA said that there was nothing in the legislation allowing multiple part-time courses to be aggregated in order to be treated as a full-time course.

The student's father argued that he had demonstrated that his daughter was studying for 32 hours a week over nine months in a year. He believed the OU's main business was with part-time courses and this was its prime vision. However, on its website, the OU defined a full-time student as one studying for 120 credits and working a minimum of 32 hours per week over nine months, as his daughter did prior to completing the courses. Even though the two courses did not have the same start and end dates, the aggregate time of study should be taken as over the whole year.

The VTE panel noted that each 60-credit course required 16 hours a week study time. (Continued next column).

VALUATION TRIBUNAL SERVICE

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(Continued from centre column)

Whilst allowing that the two courses when taken simultaneously could be treated as a full time course, the panel disagreed that this was the case for the whole year. The appeal was allowed in part and the panel ordered the BA to treat the appellant as a student for council tax purposes during the months when the two courses overlapped.

Full decision: 0121M73910/212C