Issue 67

February 2023

Valuation Tribunal Service

Valuation in Practice

News in brief

Given recent postal strikes, we encourage all communication with us by email. You can email us at appeals@valuationtribunal.gov.uk.

Autumn Statement 2022: Business Rates Factsheet

Click here to access HM Treasury's published factsheet setting out the package worth £13.6 billion in total following the Autumn Statement.

Business rates revaluation 2023 news

The Valuation Office Agency (VOA) has updated the rateable values of all non-domestic properties in England and Wales to take effect from 1 April 2023. Click here for further information.

This statistical release by the Valuation Office Agency compares changes between 2017 and 2023 rating lists, reflecting changes in the property market since 1 April 2017.

Click here to see the Department for Levelling Up, Housing and Communities (DLUHC) responses to its consultation seeking views on the transitional arrangements to be adopted at the 2023 revaluation.

2017 Rating List Checks and Challenges

Click here to view statistics regarding checks and challenges for the 2017 Rating List in England.

Business rates information letters from DLUHC

Click here for 07/2022: 2023/24 Retail, Hospitality and Leisure (RHL) rate relief scheme guidance.

You can sign up to receive an alert when a new issue of Valuation in Practice is published. Click here to join over 2,200 other subscribers

Council tax rebate monitoring data: April – October 2022

As part of government's guidance to councils for delivering the council tax rebate, councils are asked to report the payments made for both the core rebate and discretionary fund monthly in arrears. Further information can be found here regarding payment reporting by councils in England in April, May, June, July, August, September and October.

Council tax information (CTIL) letters

The latest letter issued by the DLUHC can be viewed in full here.

VTS Annual Report and Accounts 2021-22

We were pleased to publish our Annual Report and Accounts covering the period 2021-22, which was laid before Parliament on 12 January 2023.

This report provides a review of the year, operationally and financially.

Inside this issue:

Our Hearing Programme January to March 2023

This programme includes a total of five hearings covering over 1200 ATM appeals. A further 3000 appeals will be listed in April/May 2023.

The Quarter 4 Programme comprises:

Tribunal Type	January	February	March	TOTAL
Council tax	52	55	63	170
2017 Rating List	11	10	9	30
2010 Rating List	1	3	5	9
Other	1 x Transitional Certificate	2 (1 x Central List, 1 x Completion Notice)	2 x Central List	5
TOTAL	**65**	**70**	**79**	**214**

The number of 2017 Rating List hearings continues to increase and reflects the increase in appeal volumes.

80% of hearings remain dedicated to council tax appeals.

Five physical hearings were arranged during the quarter to accommodate those granted permission for a 'face to face' hearing by the President of the VTE.

Appeals stayed at the Valuation Tribunal for England (VTE) - January 2023

Our current 'stayed list' of appeals are:

Type of appeal	Reason for stay
The occupation of 'empty offices & other buildings' where property guardians occupy	Cases impacted by the Court of Appeal decision in *London Borough of Southwark & Ludgate House Ltd, Ricketts (VO)* [2020] EWCA Civ 1637. Although Ludgate House have been refused permission to appeal to the Supreme Court, stay remains in place until the Upper Tribunal (UT) has decided whether it should be valued as composite or wholly non-domestic.
Premises occupied by the Church of Scientology	Awaiting to hear whether either of the parties will appeal the recent UT judgment.
Valuation of offices outside central London where the issue in dispute relates to fitting out costs which replace an existing fit out	VTE decision appealed to the Upper Tribunal.
Valuation of offices inside central London where the issue in dispute relates to fitting out costs which replace an existing fit out	VTE to hear four appeals in March 2023 regarding 30 Gresham Street, London. This is to reflect that the central London office market is unique from the rest of the country.
2017 List appeals made on behalf of Debenhams Retail Ltd	Short stay agreed to allow parties to consider the impact of the Wales VT decision and continued settlement of large-scale shops.

Decisions of the Upper Tribunal

The appeal of Catherine Bower (VO) [2022] UKUT 0262 (LC)

At the Valuation Tribunal for England (VTE) hearing, the parties had agreed the proposed merger of two contiguous units. However, the Valuation Officer (VO) was not prepared to settle the matter by agreement as two areas, an office and a canopy area, were not occupied by the appellant ratepayer and stood to be lost from the 2010 Rating List. The VTE was asked to extend its jurisdiction beyond the scope of the proposal, as the VO contended that it was wide enough to include a proposed reconstitution of the appeal hereditament. The VTE rejected the VO's request for a reconstitution and gave effect to the parties' agreed assessment to reflect the extent of the appellant ratepayer's rateable occupation.

The Upper Tribunal (UT) was in agreement that the VTE was not empowered to reconstitute the hereditament(s) and therefore create two new hereditaments occupied or owned by other potential ratepayers, who were not party to the appeal, in the manner advocated by the VO. The UT considered the issue was simpler than how the VTE dealt with it. The VTE relied on scope of proposal however the UT looked at it more from a PICO perspective (Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018). Whilst the PICO legislation allowed the ratepayer to benefit from the legislation (Mazars reversal), there was no provision for a reconstitution as sought by the VO and therefore the VO's proposed alteration could never have fallen within the ratepayer's proposal.

Decisions of the Upper Tribunal

Nelson Plant Hire Ltd and Dawn Bunyan (VO) [2022] UKUT 309 (LC)

An appeal against a VTE panel decision to dismiss an appellant's appeal for a split assessment in the 2017 Rating List, on the grounds that this was a matter outside the scope of the proposal, and which left the VO's valuation undisturbed. The appeal property, which was occupied as a waste transfer site for the construction, demolition and builders' waste, was originally assessed at £9,300 Rateable Value with effect from 1 April 2017.

In January 2018, the appeal site was inspected, on behalf of the VO, and it was found that a new office block had been erected on site, the double storey container building had been relocated, there was also a waste shed which had been completed and the site had been resurfaced. These tenant's improvements resulted in a revised assessment of £28,750 with effect from 12 March 2018, being the date when the rating list was altered. It appears from the UT judgment that the tenant's improvements were made before 1 April 2017 as the VO also altered the 2010 list as a consequence.

Although the appellant ratepayer sought to have the assessment split into four, his case was handicapped by the fact that the representative he had employed to make the proposal had made it on the grounds that the RV shown in the list was excessive. The VO therefore argued that a division of the assessment was beyond the scope of the proposal.

The UT explored this point in its judgment and noted that, when the ratepayer carried out a check of the information the VO held about his property, he had completed the form to say he was seeking a division of the assessment. As the check stage is a necessary prerequisite before a ratepayer can make a proposal, the UT was reluctant to accept the VO's argument that the check and challenge stage should be considered in isolation from each other, since the VO would have all of the information at his disposal.

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Decisions of the Upper Tribunal cont'd...

Nevertheless, having looked at the proposal and even allowing for the limitations of the online electronic form, the UT found there was no mention of a split being sought. The UT therefore upheld the VO's argument that the VTE panel was right that a split assessment was beyond the scope of the proposal.

Even if the UT was wrong on the jurisdictional point, it held that the ratepayer had a hopeless case for a split because he (Mr Nelson) was the sole director and principal shareholder for the four companies said to be separate rateable occupation. Mr Nelson was candid enough to admit that it was not possible to keep the four companies' operations entirely separate. This was consistent with the UT's findings, following its site inspection, where it observed skips belonging to one company were stored in an area allocated to a different company, under the sub-lease.

The UT disagreed with the VO's argument that the accuracy of the valuation of the single hereditament did not need to be determined. The UT therefore went on to investigate the accuracy of the VO's valuation.

The VO had rejected evidence relating to the actual rent for the site which was agreed 18 months before the antecedent valuation date (AVD) and because it did not take into account the value of the tenant's improvements. Instead, the VO had valued the property using the contractor's test and had used the capital value of the land in her calculation. The UT was very critical of the VO's approach because she had not made any adjustments at stage 5, the stand back and look stage. The UT also expressed concern about the VO's valuation of the land element, based on figures drawn from District Valuer's Services, in relation to industrial land which she adjusted to reflect the rural location of the site.

The UT noted that several changes had occurred on site since the lease agreement including the addition of a portacabin office, improvements to the boundary walls and fencing and installation of a weighbridge. It determined that the value of these more recent buildings which were not there when the rent was agreed should be reflected in the valuation. Its valuation was therefore based on the agreed rent, together with the annual value of the portacabin and plant and machinery installed prior to 1 November 2016.

It is interesting to note that a number of line entries relating to component parts on the site, as shown in the VO's alternative valuation based on local "tone" evidence was completely omitted from the UT's valuation.

As the appeal site suffered from an irregular shape and shared access arrangements, the UT determined that an end allowance of 20% was justified. Ultimately, the UT allowed the appeal and reduced the assessment to £22,500 RV.

Decisions of the Upper Tribunal

Simon Earle Racing Ltd and Dal Virk (VO) [2022] UKUT 311 (LC)

The appellants appealed a VTE decision which had reduced the appeal assessment from £14,500 RV to £13,750 RV with effect from 30 October 2018.

The appeal property was described in the Rating List as Racing Stables and premises. It was situated near to the village in Sutton Veny which was near Warminster in Wiltshire.

At the UT, the appellants sought a reduced entry of £12,000 RV based on £485 per stable whilst the VO, even though he did not

Consolidated Practice Statement (CPS)

Don't forget: the CPS can be found on the new VTS website.

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Decisions of the Upper Tribunal cont'd...

cross appeal, sought an increased assessment of £15,000 based on £630 per stable.

The preferred valuation methodology for valuing racing stables was to devalue rents per stable. Ancillary accommodation like feed stores, offices and tack rooms were normally reflected in stable values unless they were disproportionate to the number of stables. It was also common practice to value American barns at a lower value to traditional brick or block built stables by applying a discount of between 5 and 10%.

The value of horse walkers was agreed nationally at £50 per compartment and grazing paddocks were usually valued at £200 per acre. The value of paddocks was relevant, when analysing the rent, but were non-rateable.

It was agreed that the highest values for stables were found in top racing centres.

In this case, the parties failed to assist the UT because not all of the facts were agreed nor was there agreement on the devaluation of the actual rent. In any event, the UT did not derive any assistance from the actual rent since it was set over three years after the AVD. Indirect rental evidence relating to comparable racing stables was not useful as only one rent was set before AVD and too many subjective adjustments were required to reflect components which were either exempt or did not form part of the hereditament.

The UT noted that a tone of value of £550 per stable had been agreed across the Midlands, Staffordshire and West Wales. There was little or no settlement activity in Wiltshire, so the UT looked at what had been agreed in the neighbouring counties of Somerset (£525 to £575 close to the Wiltshire border) and Dorset (£550). The UT therefore adopted £550 as its starting figure. As the 22 stables were in an American barn the unadjusted tone of £550 was reduced by 5% to arrive at £522.50 per stable. The four loose horse boxes were valued at £261.50 each and the eight horse walkers at £50 each giving a sub total of £13,960.

Having inspected the appeal property and the comparable properties put forward by the parties, the UT member identified two disabilities that he felt justified an allowance. The first was the lack of any residential accommodation to house a staff member overnight. Although neither party made a specific allowance for it, the UT member felt it was a significant disadvantage as any prospective tenant would require a neighbour's assistance or co-operation to gain a training licence. A 10% allowance was seen as justified for this disability. In addition, an additional 2½% end allowance was seen as appropriate to reflect the fact that access to the appeal property was via a neighbour's yard. The application of the combined end allowance of 12½% had the effect of reducing the RV to £12,200 after rounding. The appeal was therefore allowed.

Decisions of the Upper Tribunal

The Propane Company Ltd and Dawn Bunyan (VO) [2022] UKUT 0237 (LC)

The appeal property was an Equestrian Centre at Court Lodge Farm in Bodium, East Sussex. The appellants appealed to the UT against a VTE panel's decision which had determined the assessment at £19,750 RV with effect from 1 April 2015. In allowing the appeal in part, the VTE determined that the stables owned by the appellant company were not appurtenant to an adjacent dwelling (Oast House) because the house was in separate ownership.

The appellant company was owned by the Sternberg family who were its directors and who resided within the farming estate. Oast House was owned by a single family member.

The appeal property comprised two blocks of stables, a mess room and a hay store.

It was accepted that the indoor arena on site was non-domestic. A barn which was previously treated as non-domestic by the VO was conceded to be domestic.

Following a case management hearing, the Deputy President ordered that the UT would determine a preliminary issue; whether at the material date any part of the non-domestic hereditament constituted domestic property under section 66(1)

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Decisions of the Upper Tribunal cont'd...

of the Local Government Finance Act 1988.

In her preliminary decision, the UT member held that the fact that the stables and the house were in separate ownership was not really a determining factor, since all of the buildings were owned by family members which did not dilute the functional link between the dwelling, the mess room and one block of stables (which she referred to as Stables 1). There was open space and an ungated connection between these stables and Oast House through the courtyard. Whilst standing in the courtyard, it was apparent to her that the stables and Oast House were functionally linked.

The second lot of stables (Stables 2) and the hay store were held to be not appurtenant to Oast House as these stables sat outside the gated area. She therefore decided that these newer stables and the Hay Store had no direct link/physical connection with the older stables (Stables 1), the courtyard or Oast House, so could not be treated as domestic.

Decisions of the Upper Tribunal

The Church of Scientology Religious Education College Inc and Andrew Ricketts (VO) [2023] UKUT 00001 (LC)

The appeal properties were 68 Tottenham Court Road and 146 Queen Victoria Street in London, with the London Church located in the Queen Victoria Street premises and the remainder of the building being mainly offices whilst the Tottenham Court Road premises was used as an information centre.

The VTE held that the two buildings occupied were not exempt under paragraph 11 of Schedule 5 to the Local Government Finance Act 1988. Based on evidence submitted, the VTE President determined that the London Church was not a place of public religious worship and neither of the offices qualified for exemption. The President determined that exemption did not apply to offices, regardless of their location and use, merely because the organisation occupies an exempt building somewhere else.

On appeal, the UT held that the small chapel in the London Church was a place of public religious worship as evidence had been provided to show that the public were invited to attend, and the VO's expert witness had attended one service.

It also held that a number of areas were exempt under paragraph 11(b) as akin to a church hall or similar building and that the offices were exempt under paragraph 11(2)(b). However, the late Mr Hubbard's office was not exempt as it was effectively a shrine and neither the individual auditing suites nor the Academy area qualified for exemption.

In respect of the Tottenham Court Road building, only the self-contained office areas and the storage spaces at either end of the basement qualified for exemption.

The appeal was therefore allowed in part.

Decisions of the VTE - Non-Domestic Rating 2017

Valid service of completion notices

Two rating appeals were heard before a Vice President where a deletion of the two entries was sought on the basis that no completion notices were ever served upon the owner by the billing authority (BA).

The completion notices were purportedly issued on 31 May 2018 setting a completion day of 7 June 2018. Whilst the Valuation Officer (VO) had received copies of the completion notices, the appellants claimed they did not.

The VO's case was not helped by the BA as it was unable to prove that the completion notices were served on the owners or even that they had been in the custody of Royal Mail. Whilst the BA had informed the VO that its records indicated that the completion notices were served by recorded delivery, there was no substantive evidence to verify this.

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Decisions of the VTE - Non-Domestic Rating 2017 contd...

The Vice President therefore concluded that he had no alternative other than to allow the appeals. He determined that the completion notices had not been correctly served. Indeed, from the evidence before him, he drew the conclusion that the notices were not served at all. As such, it was determined that the appeal properties' entries should be deleted from the rating list, with effect from 7 June 2018.

Read the decision in full here.

Decisions of the VTE - Council Tax Liability

Dispute over the interpretation of the legislation surrounding the long-term empty dwelling premium

An appeal was brought under section 16 of the Local Government Finance Act 1992 as the appellant was aggrieved by the billing authority's (BA) decision not to remove the long-term empty dwelling premium.

Both parties were represented by counsel and an issue was the interpretation and application of the legislation in respect of the long-term empty dwelling premium.

The appellants became liable for the council tax as the non-resident owners with effect from 3 September 2018. By this time, the appeal property had been empty for at least 10 years. The BA had already made a determination to levy a premium under section 11B of the 1992 Act.

The appellants argued that it was unfair that they should be liable for a premium from day one of their ownership, as this meant that they would be penalised for what had gone on prior to their ownership. However, the panel rejected the appellant's argument that they were not liable for a premium charge as the level of council tax payable on a long-term empty dwelling was not reset following a change of ownership.

Read the full decision here.

Decisions of the VTE - Council Tax Liability

Disabled Band Reduction (DBR)

The appeal concerned an application for Disabled Band Reduction (DBR), whereby the property's council tax is calculated on the valuation band below that which had been ascribed to the property in the valuation list.

The appellant had applied for DBR on the grounds that her mother was a qualifying disabled person in the household and referred to two rooms in the house which were used by her. There was no dispute between the parties that the appellant's mother met the criteria to be considered a 'qualifying individual' for the purposes of DBR. The BA had asked the appellant to clarify what adaptations had been made to the property to meet her mother's needs and refused the application because there was no evidence of adaptations.

The main focus of the parties' submissions was the room on the ground floor used by the appellant's mother. It was confirmed that she slept upstairs in the property and had a bedroom for that purpose. However, a room on the ground floor was used for her to relax away from the rest of the family and do her pre-

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Decisions of the VTE - Council Tax Liability cont'd...

scribed exercises. It was established that this room did contain a bed, but was not her primary bedroom, along with a TV and chair. The Vice President considered this room was effectively a lounge, used to provide a private space away from the family, and there was not a causal link between the disability and the use of the room as required by the regulations.

The application for DBR also mentioned a second bathroom on the ground floor, used by the appellant's mother because she had mobility issues and found it difficult to climb the stairs without assistance. The BA appeared to have overlooked this aspect of the application. The BA had asked for evidence of adaptations to the property, which was not a requirement of the regulations. As the bathroom on the ground floor was not the only bathroom in the property and clearly met the needs of the appellant's mother in providing a toilet and bathroom on the ground floor, thereby avoiding her having to navigate the stairs without assistance, the appeal was allowed. This appeal highlighted the need for BAs to consider the link between the room and the disability but to be careful to avoid inserting a requirement for adaptations where none are required to fulfil the test in the regulations.

The full decision can be read here.

Decisions of the VTE - Council Tax Liability

Class F Exemption

An appeal against the BA's refusal to grant a Class F Council Tax exemption was heard by the President. The BA, City of Bradford Metropolitan District Council, was aware of the President's earlier judgment in *ZT v London Borough of Lewisham [2018]* but argued that the facts in the Bradford case justified its decision to refuse exemption.

In the Bradford appeal the appellant was the executor of his late mother's estate. The appeal dwelling was owned by his mother until she passed away on 23 August 2020 and remained unoccupied following her death. Probate was granted on 19 January 2021 and therefore the period in dispute for which exemption was sought was 23 August 2020 to 18 July 2021 inclusive.

The BA contended that as the main beneficiary the appellant had an equitable interest in the appeal dwelling. In addition, once he had allowed architects access onto the land, in relation to a planning application, the appellant had exercised a proprietary right. Planning permission was sought to build a new dwelling adjacent to the appeal property within its extended plot. The BA also submitted that by these actions the appellant, as executor, had effectively transferred ownership of the appeal dwelling to himself, as beneficiary, by assent.

The BA also contended that there were sufficient funds vested in the estate to pay off the estate's liabilities without the appeal property needing to be sold.

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Decisions of the VTE - Council Tax Liability cont'd...

However, the President rejected the BA's arguments. Entitlement to Class F exemption should not require a means test. The inevitable flaw in such a means test approach is what happens if unexpected liabilities accrue to the estate or the will is later contested before the estate is wound up? This led him to conclude that to meet the definition of a qualifying person, the appellant would have had to have possessed the legal title. The likelihood that, in due course, he stood to inherit the legal title was not sufficient to disqualify the dwelling from Class F exemption since such a theoretical approach may not have accorded with what ultimately came to pass when probate was finalised and the deceased's assets were distributed. As was the case in *ZT v Lewisham* the appellant may have had a beneficial interest but he certainly had no legal title to the freehold interest and without the latter, the President decided that he cannot be a qualifying person. The appeal was therefore successful.

The full decision can be read here.

Decisions of the VTE - Council Tax Liability

Class F Exemption

In another Class F appeal heard by a lay panel, the owner passed away on 21 February 2019 and her will bequeathed the property to the appellants. The appellants were not related to the deceased and were not executors of the estate. There was no dispute that the property had remained unoccupied since the owner's death, but the BA contended that the appellants were 'qualifying persons' and held them liable for council tax from the date that the owner had died.

The appellants contended that they were not joint owners of the property with the deceased and had no legal right to occupy or sell the property until the title was transferred on 12 March 2020.

It was the BA's argument that the appellants held an equitable interest in the property and this was sufficient to meet the test of a 'material interest'. The definition of 'material interest' is contained in Section 6 of the Local Government Finance Act 1992 as follows - *"material interest" means a freehold interest or a leasehold interest which was granted for a term of six months or more;".*

The panel found that the appellants had no freehold or leasehold interest in the property at the time of the owner's death. While it was not disputed that they would likely be beneficiaries of the estate and would ultimately own the property, they did not become the legal owners until probate had been granted to the solicitors acting as executors of the estate and the title was transferred on 12 March 2020. The panel therefore found that the property was an exempt dwelling from 21 February 2019 until 12 March 2020 and the appeal was allowed.

Further information can be found here.

Decisions of the VTE - Council Tax Liability

Holiday Chalets

These four council tax liability appeals relate to holiday chalets located at the Selsey Country Club site ("the site"). The issue was whether, during the initial coronavirus emergency period, the site was required to close in law, and whether the dwellings situated on the site were exempt under Class G in Article 3 of the Council Tax (Exempt Dwellings) Order 1992 [SI 1992 No. 558].
The four lead appeals were heard by the VTE President following two conflicting tribunal panel decisions relating to the same issue.

In summary, there was no significant factual dispute between the parties. The operators of the site had put in place significant measures to stop the appellants accessing their chalets at the site. This included substantial additional security measures to prevent unauthorised access. It was also clear from the evidence that there were between 15 and 25 residents at the site during the coronavirus emergency period. Those residents were unable to leave the site either because they had no other main residence or because doing so would have been an offence under the Coronavirus Regulations. There was also a regular police presence at the site seeking to enforce the various restrictions contained within the Coronavirus Regulations.

The issue for the President's determination turned on the correct statutory interpretation of Regulation 5 of the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 [SI 2020 No 350] (the "Coronavirus Regulations"). In particular, it was the interaction between the restriction at paragraph (3), which provided the obligation to close the business of the site, and the exceptions at paragraph (4), which permitted the site to continue to operate in prescribed circumstances.

Chichester District Council's argument took an "all or nothing" interpretation to the application of the exceptions to the restriction: that the presence of some residents on the site meant that the whole of the site was not required to close in law.

However, the President held that the exception to the restriction was only as wide as it needed to be for the purposes of the specified exception. So, whilst the exception permitted the site to operate in providing accommodation for the 15 to 25 residents unable to leave, it was not permitted to operate to allow any other persons to join the site: the parts of the site that were unoccupied were required to close under the Coronavirus Regulations and were in fact closed.

In view of that finding, the President concluded that the four appeal dwellings (being ones not occupied by residents unable to leave the site) met the conditions of the Class G exemption. The appeals were allowed.

The full decision can be read here.

Decisions of the VTE - Council Tax Liability

Empty Property Premiums

These were appeals against the BA's decision to impose a premium. Both parties were represented by counsel.

The appeal properties formed part of a grade 2 listed building with extensive gardens. The host property had been converted into flats in the 1950s. It also required a considerable amount of renovation/refurbishment and a potential sale price of

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Decisions of the VTE - Council Tax Liability contd...

£1.3million had been agreed with a prospective purchaser who intended to convert the building into a hotel.

As the flats had been empty for some time, they were subject to the empty property premium. However, the BA's determination stated that it would allow an exemption from the premium on the following grounds:

1) where owners are genuinely attempting to sell or let their property which has been vacant for at least two years (evidence of activity throughout the two-year period will be required)

   a) The property must be currently marketed by a professional estate agent and to have been so continuously for a period of at least 18 months since becoming empty;
   b) It must have been advertised in line with recent sales or rental prices, unless it has special features that reasonably warrants a higher sale or rental price.

2) Where owners are experiencing particular legal or technical difficulties which are preventing the sale, letting or occupation of the property.

The BA argued that the flats were not being marketed as a purchaser had already been found and the letting agent was only passively marketing the property, and the only technical difficulties were of the appellant's own making by signing the option to purchase which restricted the appellant's ability to let the flats and therefore continued to impose the premium.

The appellant had argued that the scheme did not state that the flats had to be actively marketed and that the BA had interpreted the scheme that way. It just stated "genuinely attempting to sell" and "marketed" which it had been and evidence had been provided by the estate agent.

Furthermore, the prospective owner needed access to the flats at short notice for surveyors etc and therefore it would have been impractical for the flats to be let.

The appeals were heard by the Vice President who concluded that the flats should not have the premium imposed and allowed the appeals. In his opinion, the appeal dwellings were exempt from the premium because the BA's determination made provision for such an exemption if there was sale activity, which there was.

An exemption would also apply if there was a legal difficulty which prevented the letting or occupation of the dwellings. As there was a prospective purchaser, who required access to the site, he found that this test was met.

The Vice President concluded that both criteria for exemption had been met although only one was required to avoid exposure to the premium. The appeals were therefore allowed.

Read the full decision here.

Decisions of the VTE - Council Tax Liability

Class V exemption

The BA contended that the appellants were liable for council tax under section 6 of the Local Government Finance Act 1992, which outlines the persons liable to pay council tax in terms of hierarchy. The appellants accepted that they were resident in the property.

The appellants' landlord had diplomatic status and whilst he resided there the property was exempt from council tax under

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Decisions of the VTE - Council Tax Liability contd...

class V. After a review in July 2021, the BA found that the owner had vacated the property to live and work in the USA on 1 October 2009 and that the appellants had been residing there since then as his tenants. The entitlement to class V had therefore ceased.

The appellants argued that the rent they paid their landlord was inclusive of council tax and that they assumed that the landlord was therefore liable. They requested that the tribunal reverse the BA's determination that they were liable retrospectively for the council tax because they said they could not afford to pay it.

The panel noted that the appellants had acted in good faith and had believed that they had paid the council tax to the owner of the property, however, the panel did not have any jurisdiction with regard to agreements reached between the appellants and the owner of the property. It also noted that the appellants did not dispute the BA's contention that they were resident in the property.

Unfortunately for the appellants, under section 6 of the Local Government Finance Act 1992 as residents, they were liable to pay the council tax not the landlord.

The full decision can be read here.

Decisions of the VTE - Council Tax Liability

Entitlement to a Disabled Band Reduction (DBR)

The appellant had sought a one band reduction in respect of his council tax liability for his home in accordance with The Council Tax (Reductions for Disabilities) Regulations 1992. The application to the BA was on the sole basis that a room in the house had a dual role as his son's bedroom and sensory room.

The appellant was represented pro bono by counsel who argued on the basis of Sandwell Metropolitan Borough Council v Perks [2003] EWHC 1749 (Admin) that a Disabled Band Reduction (DBR) should be granted because a causal link had been established between the appellant's son and his use of the room as his sensory room.

There was no dispute between the parties that the appellant was an 'eligible person', that his son was a 'qualifying person' or that a causal link had been established between the disability and the use of the room. However, the BA argued that a DBR could not be granted because there was also a requirement for an additional room within the dwelling which was necessary to meet the needs of the appellant's son and this criteria had not been met.

Before arriving at its decision, the panel had regard to the binding authorities, the Court of Appeal's judgment in *Howell-Williams v Wirral BC* [1981] 79 LGR 697 and the High Court's judgment in *South Gloucestershire Council v Titley and Clothier* [2006] EWHC 3117 (Admin). Having regard to these authorities, the appellant's case could not succeed as the room for which relief was sought was the disabled person's bedroom which he would require whether he was disabled or not. Therefore, the room was not, in any sense, found to be 'additional' and the appeal was dismissed.

Read the full decision here.

Decisions of the VTE - Council Tax Liability

Stable building – dwelling and unfit for human habitation?

The appellant resided in a stable building and had been refused planning permission for lawful residential use. Nevertheless, he had resided there since 2003 and his home was banded for council tax purposes in band A.

The appellant sought a deletion of the council tax entry on the basis that the planning authority had determined it was not a dwelling and unfit for human habitation. However, the fact that he resided there meant it was a hereditament and he was in rateable occupation of it. It was therefore a dwelling for council tax purposes and the appeal was dismissed.

Read the full decision here.

Decisions of the VTE - Council Tax Valuation

Material reduction

An appellant sought a reduction in their dwelling's council tax band on the grounds that the care home to the rear of their property had been converted into flats.

Following the conversion works, the offending building had been extended with two overlooking windows and a doorway, which the appellant argued brought it closer to their property's boundary. The appellant claimed that some of their rear outlook was blocked.

The panel was not convinced that the conversion works had materially reduced the value of the appeal dwelling sufficiently to justify a band reduction. No valuation evidence was put forward by the appellant to substantiate their assertion that their house had been reduced in value. The building to the rear was built before 1900 and in reality, even after the conversion works, there had been little change. In any event, the conversion works had been undertaken to a high standard to make it attractive for would be purchasers. The assessments of comparable dwellings, in the same locality, also supported the respondent Listing Officer's case that the existing band F was correct. The appeal was therefore dismissed.

The full decision can be read here.

Decisions of the VTE - Council Tax Valuation

Appeal against Valuation Officer (VO) not to reduce valuation band

Following a programme of significant construction works, the appellant sought a deletion of her dwelling's existing band F entry with effect from 1 February 2016. The Listing Officer treated the proposal as well founded.

However, following the completion of the works, the Listing Officer revalued her property as a new hereditament for council tax purposes and put it in band G with effect from 18 November 2016.

This gave rise to a series of proposals and subsequent appeals which were heard by a Vice President.

Some of the proposals were invalid as the Vice President decided that the appellant was not entitled to challenge the historic band entry or the Listing Officer's decision to well found her earlier proposal and delete the band F entry from the list, an action she no doubt regretted.

The Vice President decided that the Listing Officer was entitled to re-value the property as a new hereditament, following the completion of the works. The appellant's argument that the band entry could not be increased until there was a relevant transaction was rejected. The valuation evidence put forward supported band G and the appeals were dismissed.

The decision can be read in full here.

VALUATION TRIBUNAL SERVICE

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