Issue 69

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Business Name

Valuation in Practice

News in brief

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Revaluation 2023 compiled list statistical information

- 2.15 million properties in England and Wales are included in the 1 April 2023 rating list.
- The total rateable value in this list amounts to £70.4 billion compared with £65.7 billion on the 2017 rating list, an increase of 7.2% (7.4% increase in England and 1.6% in Wales).
- The East region saw the largest increase in rateable value of any other region in England of 14.8%.
- The North East region saw the smallest increase (2.6%).
- The retail sector saw a 10% reduction in rateable value across England and Wales.
- The industry sector saw the largest increase of any sector across England and Wales, 27.2%.
- The central rating list saw a decrease of 0.6% from 2017. The total RV on the 2023 compiled central rating list (which includes the rating assessments of the network property of major transport, utility and telecommunications undertakings and cross-country pipelines) had a rateable value totalling £4.0 billion on 1 April 2023 (£3.8 billion for England and £0.2 billion for Wales).

Click here to read more.

Non-Domestic Rating Bill

The Non-Domestic Rating Bill was examined line by line during Committee stage in the House of Lords on 3 July 2023. A further chance to closely scrutinise elements of the Bill and make changes (known as the Report stage) is yet to be scheduled. Read more about the Bill's developments here.

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Open consultation - Business Rates Improvement Relief: Draft regulations

On 5 June 2023, the Department for Levelling Up, Housing and Communities (DLUHC) launched an open consultation on draft regulations to implement the government's Business Rates Improvement Relief Scheme designed to support businesses wishing to invest in their property. It will ensure that no ratepayer will face higher business rates bills for 12 months as a result of qualifying improvements to a property they occupy. The Non-Domestic Rating Bill currently before Parliament contains powers to allow for the Improvement Relief Scheme.

Click here for further information.

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Business rates information letters

The most recent publications from the DLUHC issued on 31 March 2023 are:

2/2023: Introduction of the NDR Bill, 2023 Spring Budget, 2023/24 Heat Network Rate Relief Scheme Guidance.

The business rates information letters can be read in full here.

Official statistics – Non-domestic rating: stock of properties including business floorspace statistical commentary

On 25 May 2023, the Valuation Office Agency (VOA) published statistics relating to stock of non-domestic properties including business floorspace for England and Wales at 31 March 2023. Click here for more information.

Official statistics – Non-domestic rating: challenges and changes, 2017 rating list, May 2023

Statistics on checks (England only), challenges and assessment reviews against the 2017 local rating list at 31 March 2023 can be found here.

Council tax statistics

On 21 June 2023, DLUHC published collection rates for council tax and non-domestic rates in England, 2022 to 2023. Please click here for further information.

Updates: Council Tax Manual

During 2023, the VOA have published some modifications to the Council Tax Manual 2023. The specific changes can be read here.

Live tables on council tax

On 19 May 2023, DLUHC updated the live tables providing Band D council tax figures since 1993, average council tax per dwelling since 1993 and council tax statistics for parish and town councils 2023 to 2024. Further information can be found here.

Council tax: stock of properties

On 15 June 2023, the VOA published statistics on the stock of domestic properties by council tax band and property attributes in England and Wales between 1 April 1993 and 31 March 2023. Read more about this here.

Our July to September 2023 Hearing Programme

The profile and volume of our remote hearing programme is:

Tribunal Type	July	August	September	TOTAL
Council tax	29	46	46	121
2017 Rating List	20	17	15	52
2010 Rating List	3	3	0	6
2010 Rating List/ Council Tax Mixed	3	0	1	4
Other	x1 Completion Notice x1 Transitional Certifi-cate	1 Completion Notice	0	3
TOTAL	**57**	**67**	**62**	**186**

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

Below is our current 'stayed list':

Type of appeal	Reason for stay
2010 Rating Appeals where the VO, following the Supreme Court's judgment in *Cardtronics* undertook a list maintenance exercise deleting the ATM entries and increasing retrospectively the RV of the host store. The appellant argues that Regulation 14 (7) of the NDR regs prevents a retrospective increase.	Joint application made by the parties for preliminary effective date issue to be treated as complex. Other related appeals identified have been stayed.

Decision of the Supreme Court

London Borough of Merton Council v Nuffield Health [2023] UKSC 18

The Supreme Court has determined that Nuffield Health Ltd is entitled to charitable relief (80%) from non-domestic rates under section 43(6) of the 1988 Act.

The billing authority originally allowed relief but then withdrew it because it found that Nuffield Health was charging similar fees to Virgin Active. The appeal property was Merton Abbey that was being used as a gym.

The High Court and the Court of Appeal had previously found in Nuffield's favour and the Supreme Court did likewise. It found there were two requirements to obtain charitable relief.

The first requirement was met because Nuffield was a registered charity and therefore assumed to operate for charitable purposes.

In order to satisfy the second requirement, it was sufficient for the property to be wholly or mainly used for the general purposes of the charity. The fact that it was mainly the more affluent members of society who could afford to pay the fees and avail themselves of the facilities did not mean that the property was not occupied for charitable purposes. The rich being part of society as well as the poor and society as a whole benefited from this facility. It was also accepted that the trustees of the charity were not in breach of their fiduciary obligations in looking after the poor, when looking at the charity's operations as a whole, even though they were in effect excluded from using the appeal site.

Decision of the Upper Tribunal

Dal Virk (VO) and Moor Lane Self-Storage Ltd [2023] UKUT 93 (LC)

The Valuation Officer (VO) appealed a Valuation Tribunal for England (VTE) panel decision to reduce the appeal property's entry from £21,750 to £12,250 RV with effect from 8 April 2017. On appeal, the VO sought an increased entry of £17,500 RV whilst the respondent sought a retention of the VTE's valuation.

The main issue in dispute between the parties related to the valuation of the land. Although the value of the land was agreed at £10 per m^2, in its decision, the VTE had not reflected in its valuation any area of land which was covered by storage containers.

The Upper Tribunal (UT) member decided that this was the wrong approach because if the value of the land below the containers was excluded from the valuation, the land would be worth less with containers on it. This would not make sense. He therefore determined the whole site should be valued as £10 per m^2 as the containers were not fixed to the ground like normal buildings but were more akin to portacabins or an item of plant and machinery that had been placed on the land. The correct approach was to value the land as a whole and then make an addition for the containers.

The parties had failed to agree survey measurements for the land but the UT found that the respondent's valuer had aggregated the areas of the two tiered land as opposed to measuring the whole area of the site. Whilst his total dimension for the width of the site at the southern end matched the VO's, his dimensions of the longer sides were smaller. Having recognised this error, the respondent's correct survey area was very close to the appellant VO's survey area and therefore the UT split the difference in determining a survey area of 1,453.75m^2.

With regard to the valuation of the containers, the UT member rejected a same value approach, used for comparable sites, as the containers were different in size. In the absence of any rental evidence or information on which to base a receipts and expenditure approach, he had no option but to use a valuation cost-based approach. The UT therefore adopted the VO's cost -based approach and arrived at a sum of £1,634 per container. It then applied the statutory decapitalisation rate of 4.4%, in the absence of any convincing evidence to support a different appropriate rate, to arrive at a value per container of £71.90.

The final issue in dispute was the level of end allowance to reflect the sloping nature of the site. The VO was prepared to concede 2½% but the respondent invited the UT to uphold the VTE's determination of 5%. In the absence of any evidence to show that the VTE's end allowance was wrong, the UT determined the end allowance at 5%.

Ultimately, the VO's appeal was allowed and the list entry was increased to £17,100 RV.

Consolidated Practice Statement (CPS)

Please note: the CPS was recently amended and changes were effective from 1 April 2023. The CPS can be found on the VTS website under VTE guidance.

Decisions of the VTE – Non-Domestic Rating List 2010

The proper exercise of the VTE's discretionary power under Regulation 38 (7)

In this case, the parties had agreed that the correct assessment for the appeal property should be £2,330,000 RV. The existing entry as shown in the 2010 Rating List was £4,870,000 RV with effect from 1 February 2015.

When the appeal property was inspected by the Valuation Officer (VO) in late 2015, the appellant was in occupation of a bonded high bay warehouse which was still under construction at the material day. Neither the appellant's representative nor the VO were aware of this fact until around October 2019. The VO therefore invited the tribunal to make an Order that the parties' agreed assessment should only apply for the period 1 February 2015 to 16 September 2015 inclusive using its discretionary power under Regulation 38 (7) of its Procedure Regulations. After that the entry would revert back to the entry of £4,870,000 RV.

Ordinarily, the tribunal would not have made an Order under Regulation 38 (7) to cure the failure of the VO to properly identify the hereditament at the material date. However, in this case, the appellant did not oppose the granting of an Order and given the special circumstances the President considered it appropriate to grant the Order. Those special circumstances being that it was not on either the appellant's representative's or the VO's radar that the appeal property had been extended since the material day. Had the Order not been granted it would have been a gross injustice if the appellant had benefited from a financial windfall, just because the VO and its representative had been kept in the dark.

Click here for the full decision.

Decisions of the VTE – Non-Domestic Rating List 2010

The VO's right to make a retrospective alteration when the Rating List was closed

This appeal, arose from a proposal, challenging the Valuation Officer's (VO) notice of alteration. On 12 May 2021, the VO altered the appeal property's 2010 Rating List entry from £64,000 to £143,000 RV with effect from 28 June 2011.

This was the previous existing entry for the petrol station until 14 October 2014 when it was deleted and replaced with two new compiled list entries, one for the petrol filling station minus the automated teller machine (£143,000 RV with effect from 1 April 2010) and one for the ATM.

Following the Supreme Court's judgment in *Cardtronics*, the VO deleted the entry relating to the ATM by well founding an outstanding proposal.

The VO also sought to reverse the effect of the other October 2014 alteration by altering the list to show a compiled list entry of £64,000 RV with effect from 1 April 2010 and the subsequent increase to £143,000 RV with effect from 28 June 2011.

Click here to sign up to be notified of when the Consolidated Practice Statement is updated.

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Decisions of the VTE – Non-Domestic Rating List 2010 cont'd...

There was an outstanding proposal against the petrol filling station, which was stayed pending the outcome in *Cardtronics*. The VO and the appellant's representative settled this proposal by agreement. To give effect to the agreement the VO reduced the entry of the petrol filling station from £143,000 to £64,000 RV with effect from 1 April 2010. The list entry was altered on 21 April 2021.

Around three weeks later, the VO made a second alteration and increased the assessment from £64,000 to £143,000 RV with effect from 28 June 2011.

The appellant's Counsel argued that the VO was not empowered to do this because when the alteration was undertaken, there was no outstanding proposal for the VO to give effect to.

In response, the VO's Counsel argued that, following *Cardtronics*, the appellant must have realised that once the ATM entry was deleted, the assessment of the petrol filling station would need revisiting. The VO also argued that it would be unfair for the appellant to benefit from a financial windfall and that the ATM proposal was a suitable vehicle which allowed the VO to alter the list entry for the petrol filling station.

Although it did not sit well with the President, given that the appellant was not morally entitled to a financial windfall, he determined that the VO was not empowered to alter the 2010 Rating List on 12 May 2021, as they had no outstanding proposal to give effect to. The VO therefore was prevented by Regulation 14 (8) of the appeal regulations from altering the list. That erroneous alteration was therefore reversed and the appeal was allowed.

Read the full decision here.

Decisions of the VTE - Non-Domestic Rating 2017

Split assessment sought for a set of barristers' chambers

The appellant, who was Head of Pump Tax Court Chambers, sought the deletion of the single existing entry for chambers as a whole and in its stead proposed nine new hereditaments. A split assessment was proposed because it was argued that the individual barristers' rooms should form separate hereditaments.

Although each barrister was a member of chambers and contributed to the expenses of chambers, in addition to their own individual room contribution, it was argued that each barrister, in terms of how they ran their business, was independent of chambers and was the only

To be continued on Page 7

Decisions of the VTE - Non-Domestic Rating 2017 cont'd...

person in actual occupation of their own room.

The President, however, found the individual rooms occupied by barristers was clearly complementary to the business of chambers and of mutual benefit to both. Therefore, the occupation of the rooms by barristers was subordinate to chambers whose occupation was paramount. The reality in this case was that individual members were lodgers whose entitlement to a room ended when they ceased to be members of chambers. The appeal was therefore dismissed.

The VTE decision has been appealed to the Upper Tribunal.

For more information, click here.

Decisions of the VTE - Non-Domestic Rating 2017

Are advertising rights within railway stations separately rateable?

The appeals related to two advertising rights located within Liverpool Street Station and Victoria Station.

Following a report received by the billing authority, the Valuation Officer (VO) decided that the advertising rights formed separate hereditaments and should be shown in the local rating list. This was a significant change in approach from the VO as throughout previous lists, the value of the advertising rights was reflected in the railway assessment that was shown in the Central List. Moreover, no alteration was made to the Central List, when the decision was made to value them as separate hereditaments under section 64(2) of the Local Government Finance Act 1988 and therefore the appellant was effectively double taxed.

The crux of the dispute related to the Concession Agreement that was entered into between Network Rail and JCDecaux who it employed to market and expand the advertising revenue stream in its busiest train stations. Having regard to the terms of the Concession Agreement and what happened in practice, the panel found that at all times Network Rail's occupation was paramount and therefore the rights had not been let out and were still used for railway purposes.

Network Rail had the power to remove, obstruct or replace the digital advertising at its sole discretion. It had also exercised its right to override commercial digital advertising with important station announcements, customer information and travel updates as and when it saw fit. Network Rail's argument that it was in paramount control was corroborated by JCDecaux's Senior Partnership Manager. The appeals were allowed and the entries ordered to be deleted from the local list.

The VTE decision has been appealed to the Upper Tribunal.

You can read the full decision here.

Decisions of the VTE - Non-Domestic Rating 2017

Agricultural exemption of the LGFA 1988

This case was heard by the Vice President and concerns the application of an agricultural exemption under paragraphs 1 to 8 of Schedule 5 to the Local Government Finance Act 1988.

Each of the five farms where the mushrooms are grown have an agricultural exemption, this appeal was about whether the appeal property should also get an agricultural exemption. The growing of the mushrooms takes place inside an agricultural building, as does the packing of the mushrooms. In essence the key issue was that the legislation provides an exemption where an agricultural building is used in connection with agricultural operations on that or other agricultural land. In this case the operations both take place in 'agricultural buildings'.

The appeal property is a modern building used solely for the packing and distribution of mushrooms. It is occupied by the appellant and used by a co-operative of five mushroom growers, established under the Industrial and Provident Societies Act 1965 and accepted as a body corporate. No mushrooms are grown in the packhouse, however one of the co-operatives farms adjoins the appeal property and the other four farms are located between 3.3 and 20 miles away.

A key argument put forward by the appellant was that the Vice President should look at the '*intent*' of the legislation. *R (Quintavelle) v Secretary of State for Health* [2003] UKHL 13 was cited in support. The appellant further argued that the appeal property is occupied by a co-operative of mushroom growers, and they are the only co-operative in England. It was argued that this situation was not around at the time the Local Government Finance Act 1988 was drafted and that it was unreasonable for the drafter to envisage every circumstance that may arise. The appellant therefore invited the Vice President to extend the relevant provisions of Schedule 5 to cover this unforeseen circumstance.

During the hearing the respondent took the Vice President carefully through the construction of the relevant legislation, arguing that '*exemptions constitute an exception to a general rule and ought in principle to be construed strictly*'.

The Vice President dismissed the appeal on the basis that rating law distinguishes between agricultural land and agricultural buildings and that the law in Schedule 5 is clear enough. It would be for Parliament to deal with the perceived inconsistency that the appellant states exists. The Vice President concluded he was not able to extend the exemption given '*the clear and unambiguous words of the material paragraphs of Schedule 5*'.

The full decision can be read here.

Decisions of the VTE - Council Tax Liability

'Owner' liable for council tax

The appellant, as landlord of the appeal property had submitted that he believed that it was unfair of the billing authority (BA) to charge him council tax given that it was the residents of the local authority property next door that had rendered the appeal property incapable of being let due to the anti-social behaviour. He believed that he should be compensated for the nuisance caused as all of this was beyond his control, the council's housing department would not even let the appeal property to a person on the council's waiting list, on his behalf, due to the residents of the neighbouring property.

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

The BA contended that under Section 6 of the Local Government Finance Act 1992, where there is no resident in a property it is the 'owner' who is liable for the Council Tax charge. In this case the tenants had moved out of the appeal address on 11 September 2020. The property was furnished and unoccupied from that date. The appellant had contacted the BA and stated that he should not have to pay council tax as the property could not be let due to the anti-social behaviour of the neighbouring residents.

The BA did not dispute that the neighbours had caused a nuisance and may well have caused the appellant's tenants to leave the property. However, the BA's representative contended that the BA had to operate within council tax legislation and under that legislation there were no exemptions or discounts available in these circumstances.

Finally, the appellant had argued that he was unable to sell the property as he would be forced to disclose information about the ongoing problems with the neighbours and no-one would purchase the property.

The BA had signposted the appellant to Cornwall Housing Ltd and the Local Government and Social Care Ombudsman, who may be able to provide further advice.

The panel was aware that this was a very unfortunate situation but, unfortunately, it had no discretion in this matter and could only apply the law as it stood which resulted in the dismissal of the appeal.

To read the full decision click here.

Decisions of the VTE - Council Tax Liability

Liability for homeless accommodation

Prior to the COVID-19 pandemic, the appeal property had been run as an aparthotel and subject to non-domestic rates. With the impending pandemic, the hotel's trade declined and therefore an informal agreement was made with the local authority to house homeless people. The property was subsequently assessed as seventeen separate dwellings for council tax.

The owner appealed the billing authority's (BA) determination that it was the liable person, arguing that the individual residents were instead, for the periods when the respective dwellings were occupied.

The panel rejected the BA's argument that the whole property should be treated as a house in multiple occupation (HMO), since it was assessed for council tax purposes as seventeen dwellings none of which was a HMO.

Whilst the panel appreciated that it was administratively more difficult for the BA to collect the council tax when the occupancy of the dwellings changed frequently, it was satisfied that the Council Tax (Liability for Owners) Regulations 1992 did not apply, and the liable person for council tax at the appeal dwellings should be determined by section 6 of the Local Government Finance Act.

The appeal was therefore allowed.

Click here to read the decision.

Decisions of the VTE - Council Tax Liability

Liability for council tax on a single day

This appeal was brought by a landlord against the decision of Surrey Heath Borough Council (the BA) to hold him liable for council tax for a single day on 28 February 2022. Following the abolition of the Class C exemption the BA offered no discount for empty and unfurnished properties and had issued the landlord a council tax bill for a single day.

The landlord had let his property to tenants 'A' on a six-month fixed term Assured Shorthold Tenancy (AST) commencing 1 September 2021. The property was then let to tenants 'B' on a 12-month fixed term AST commencing 1 March 2022. The landlord considered that since the tenancies were consecutive there was no interim period when the property was unlet. His argument was that since tenants 'A' AST ended at midnight on 28 February 2022 they should be liable for council tax up until and including that day. Tenants 'B' would be liable for council tax from 1 March 2022, the commencement date of their tenancy agreement.

However, the BA took the view that it was unlikely that tenants 'A' would have remained in occupation of the premises until midnight on 28 February 2022 and that it was probable that they had removed their furniture and handed back the keys at a more convenient time during the day. The BA pointed to Section 2 (1) of the Local Government Finance Act 1992 which provides that liability to pay council shall be determined on a daily basis and that it shall be assumed that any state of affairs subsisting at the end of the day had subsisted throughout the day. Having established that the appeal property was vacant at the end of the day the BA determined that the landlord, as owner, held the material interest and was liable for council tax.

The landlord asserted that whilst tenants 'A' had removed their furniture and handed back the keys during the afternoon of 28 February 2022 this did not constitute surrender of their lease and that should they need to regain access to the property for any reason later that day he would be obliged to facilitate this. In his view they were entitled to possession for all of that day.

Whilst the act of the tenants in handing back the keys could imply a surrender of the lease, the assertions of the landlord that they still had a right to gain entry to the premises introduced an element of equivocation which led the panel to conclude that surrender was not complete until the fixed term tenancy expired by effluxion at midnight. The BA decision to hold the landlord liable was therefore incorrect since tenants 'A' retained a material interest inferior to his up to the end of 28 February 2022.

The appeal was allowed.

Click here to read the full decision.

Decision of the VTE - Council Tax Invalidity

Validity of appellant's proposal to alter the same list in relation to the same dwelling and arising from the same facts invalid?

The Listing Officer (LO) had issued an invalidity notice stating that the appellant's proposal, as a new taxpayer, to reduce the valuation band for the subject property, was invalid because the tribunal had already determined the correct band in a hearing from 1994. Neither the appellant nor the LO's representative had been able to furnish the tribunal with a copy of the 1994 decision. The LO's records indicated that a hearing had occurred on 5 December 1994 and the appellant at the time may have attended, but without a detailed decision there was no clear record of what the grounds of the appeal were and what was

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Decision of the VTE - Council Tax Invalidity cont'd...

considered by the panel.

The LO relied on the wording of Regulation 4(5)(b) to the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009, which stated:
"(5) No proposal may be made under paragraph (4) where –
…..
(b) - a proposal to alter the same list in relation to the same dwelling and arising from the same facts has been considered and determined by the VTE otherwise than as mentioned in regulation 32 of the VTE Procedure Regulations (hearing in a party's absence) or by the High Court;"
The Vice President found that this Regulation specified the Valuation Tribunal for England (VTE), but the earlier decision from 1994 would have been determined by the former Northamptonshire Valuation Tribunal (VT), as the VTE was established on 1 October 2009. He therefore found that only decisions of the VTE on the same grounds would prohibit a proposal being validly made by a new taxpayer. The appeal was allowed, and the proposal remitted to the LO for a decision on the substantive issue of the correct valuation band.

To read the full decision click here.

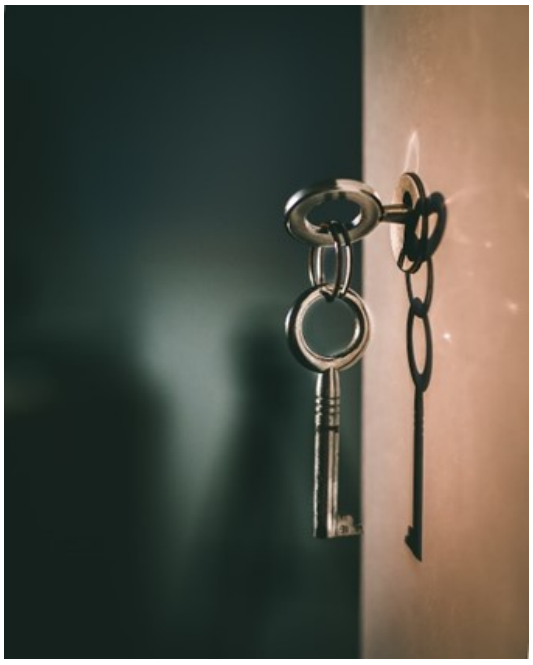
Decisions of the VTE - Council Tax Valuation

Merging of three separate assessments in the valuation list into one entry

The appellant served a proposal on the Listing Officer (LO) to merge three separate assessments in the valuation list into one entry. Following extensions to the original property, the LO had entered both a ground floor flat and a first floor flat into the list.

The appellant contended that the two properties described as flats by the LO were care units that should be considered as part of the main property. The appellant had constructed the units as part of a project to assist the Local Authority with care in the community and bed blocking in both hospitals and care homes.

The appellant submitted that the units were incapable of being considered as self-contained. They contained facilities such as a worktop, sink and space for storage however all food was prepared and cooked in the main house kitchen. Residents of the care units were able to use and enjoy the facilities in the main house.



The panel referred to *Rawsthorne (Listing Officer) v Parr* [2009] EWHC 2002 (Admin) where it was held it was necessary to initially consider whether any rooms comprised dwellings as defined in section 3 of the Local Government Finance Act 1992, before moving on (if necessary), to consider the provisions of the Council Tax (Chargeable Dwellings) Order 1992.

The panel considered the four ingredients to constitute rateable occupation in *John Laing & Son Limited v Kingswood Assessment Committee* [1949] KB 344 and upheld the respondent's determination that each room constituted a hereditament and was therefore a dwelling in its own right.

The panel made findings of fact during the hearing and found that all four ingredients of rateable occupation were satisfied for both the ground floor

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

and first floor flat. The rooms were capable of actual and beneficial occupation, as evidenced by the rooms being occupied by tenants who used them as places to live, sleep, reside and rent was being charged for the use of the rooms. It was clear to the panel that occupation of the rooms was exclusive to each individual tenant, and locks were present on each of them affording them a substantial degree of privacy. The panel was aware that there was no fixed definition of transience in law, however, it considered that a minimum tenancy period of six months or more was sufficient to satisfy that occupation of the rooms was not too transient, and the appellant had stated that residents had continued to reside in the units in excess of that initial term.

In view of the foregoing, the panel was satisfied that the appeal properties were individual hereditaments and the council tax valuation list correctly showed three dwellings in respect of each one.

Click here to read the full decision.

Decisions of the VTE - Council Tax Valuation

Band increase following a loft conversion

The appeal was made against a Listing Officer's (LO) decision to increase the assessment of the appeal property from band B to band C with effect from 17 April 2022.

When the appeal property entered the council tax list at band B on 1 April 1993 it had been a two-bedroom semi-detached bungalow with a reduced covered area (RCA) of 76m^2.

Following alterations made by the previous owner, as at the date of the appellant's purchase, 10 February 2022 (the relevant date), the RCA had increased to 97m^2. The accommodation comprised a living room, kitchen, two bedrooms and a bathroom on the ground floor, and two rooms in the converted loft area.

The appellant disputed the band C assessment on the grounds that the appeal property had been bought as a two-bedroom property with boarded loft space. She had bought a bungalow due to her arthritis, and she did not use the loft area as living space. The loft conversion did not have Building Regulations approval, and while the structural engineer deemed it to be of a good enough standard, the appellant considered that it was a boarded-out loft space accessed via very steep stairs; according to the mortgage valuation, it had not added any value to the property.

In consideration of the increased size of the appeal property, sales evidence, and comparable properties, the LO contended that the appeal property would have achieved a sale price in excess of £52,000 if it had sold on 1 April 1991.

After having regard to Section 24(10) of the Local Government Finance Act 1992, together with the fact that the appeal property had undergone a material increase (extension/alterations), followed by a relevant transaction on 10 February 2022, the panel found that both limbs of the test had been satisfied and the LO had been correct in reviewing its assessment to include the property's loft conversion.

With reference to the photographs and the structural report, the panel was satisfied that the converted loft rooms should be classed as living space and therefore included in the total RCA of 97m^2.

The panel found support for band C with reference to the LO's sales evidence and comparable properties and the appeal was dismissed.

To read the full decision click here.

Decisions of the VTE - Council Tax Valuation

The difference between a property extended by the current owner and one which had been deleted and enters the list as a new dwelling

The appeal dwelling was owned by the appellant and became unoccupied in 2015 when the tenants moved out. At this time the appellant decided to carry out major works and extensions in order to restore the band F dwelling to its former glory. The Listing Officer (LO) was satisfied that a deletion of the entry was justified from 1 October 2017, because of the ongoing programme of works.

Following the completion of the works, the appellant assumed the band F entry would have been reinstated but the LO valued it as a new dwelling in band G with effect from 16 June 2021 and placed it in band G. The appellant duly challenged the accuracy of the higher band entry.

With regard to the correct band for the extended appeal dwelling, the panel determined that it had to be considered as a new dwelling as it had previously been deleted from the valuation list. It was therefore required to determine the correct valuation band of the appeal dwelling as it physically existed on 16 June 2021 when it entered the valuation list as a new dwelling (the relevant date).

Based on the appeal dwelling's attributes at the relevant date, the panel made comparisons with the 1990's sales and the bands attributed to similar and smaller dwellings on the same street and concluded that band G was not excessive for the appeal dwelling.

The panel noted the appellant's comparable properties which were similar in size and accommodation to the extended appeal dwelling and were in a lower band. In general, these properties had been extended to a similar extent to the appeal dwelling but were in lower bands. The panel noted that these properties, unlike the appeal dwelling, had not been deleted from the valuation list whilst their extensions were being carried out.

Their situation therefore differed from the appeal dwelling in that in accordance with Regulation 3 of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009, the LO has to wait until they are sold before altering their bands to reflect any changes in their physical attributes. The panel determined that no significant weight could be placed on the appellant's comparable properties in determining the correct band for the appeal dwelling.

The scenario outlined in this appeal highlights the need to think carefully before making a proposal to delete a property during renovation works.

You can read the full decision here.

Decisions of the VTE - Council Tax Valuation

Prestigious Private School

These appeals were three properties: The Housemasters Flat, Grenville House; Assistant Housemasters Flat, Temple House and The Housemasters Flat, Grafton House at Stowe School, Stowe, Milton Keynes, which is a prestigious private school located in a 17th century former mansion house.

The appellant sought the following entries:
The Housemasters Flat, Grenville House - Band C (comp)
The Housemasters Flat, Grafton House - Band B (comp) and
Assistant Housemasters Flat, Temple House - Band A (comp)

The Listing Officer (LO) had provided a number of comparable properties, but these were modern, purpose-built flats in the locality. Whilst he produced tonal evidence of similar properties that were located in a private school, this was in Cambridge, which the panel considered was too far from the appeal property to be reliable.

Being in a unique building and flats located within a prestigious private school, the appellant's representative was unable to provide any sales or tonal evidence. He therefore adopted a contractor's basis valuation approach to arrive at his valuation(s). The panel was not satisfied with either party's valuation approach. It decided that the agreed assessments of other flats within the school grounds formed the best evidence and was a good starting point. The effective floor areas of these ranged from 57m^2 to 72.96m^2.

In its opinion, the size of the Assistant Housemasters Flat, Temple House 98m^2 justified a band B (comp) entry.

Once the panel had determined band B for the Assistant Housemasters Flat, it concluded that the Housemasters Flat which measured 142m^2 justified a band C (comp) entry and the larger Housemasters Flat which measured 168m^2 should remain in band D (comp).

Two appeals were therefore allowed in part and the appeal against the largest flat was dismissed.

Click here to read the full decision.

Decisions of the VTE - Council Tax Valuation

One property does not demonstrate a tone of the list

This was a council tax valuation appeal where the subject property had been extended by a previous owner and then sold to the appellant. Following the sale, the band of the subject property was increased from band F to band G. The property had increased in size from 161m^2 to 185m^2.

The respondent had submitted as evidence a sale of a property from 1991 and a property in band G on the same street as the subject.

The appellant's representative had submitted evidence of four comparable properties that were in bands E and F. There was also a sale of the subject property in its un-extended state in December 1996 for circa £121,000. Both the respondent and the appellant's representative stated at the hearing that the housing market was at parity with antecedent valuation date (AVD) levels in late 1996.

The panel held that the most persuasive evidence was the sale at the bottom of band F of the subject property. It was the panel's opinion that the material increase would not have been band significant.

Additionally, the panel placed more weight on the appellant's representative's evidence as it found they were more comparable to the subject property. While the respondents were on the same street as the subject property, they were not at the same end and were located significantly further away from the railway line, that the subject property was adjacent to. The sale of the subject property in its un-extended state and the sale of the respondent's comparable property demonstrated to the panel the difference in values between the two locations in the same street.

While tone is an accepted method of valuation in the absence of sales, the panel found it was difficult to establish a tone with such limited evidence.

The appeal was therefore allowed and the band reduced to band F.

Further information can be found here.

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