Issue 76 May 2025

Valuation Tribunal Service

# Valuation in Practice

## News in brief

### Want to write to us?

Second Floor, 120 Leman Street, London E1 8EU.

Email us at appeals@valuationtribunal.gov.uk.

### Council tax information letters

See here for the latest council tax information letters from the Ministry of Housing, Communities & Local Government (MHCLG).

### Guidance: Paying the right level of council tax: a plain English guide to council tax

MHCLG has issued a plain English guide to council tax and how the system operates in England, including an explanation of the range of exemptions and discounts available. The full guide can be found here.

### Official statistics: Local authority council taxbase in England: 2024 (revised)

Updated on 7 March 2025, this release provides details on the

- number of dwellings liable for council tax;
- number of dwellings that receive council tax discounts;
- number that are charged premiums; and
- number receiving exemptions in England.

### Accredited official statistics: Council tax levels set by local authorities in England 2025 to 2026

This release, published on 20 March 2025 contains information on the council tax levels set by local authorities in England, and associated data.

### The Valuation Office Agency's (VOA) Council Tax Manual: The VOA's technical manual for assessing domestic property for council tax

The VOA's council tax manual on how they assess domestic property was updated on 26 February 2025. This manual provides practice guidance for Listing Officers on council tax valuation matters and sets out their interpretation of current law and precedent in this area. Click here for the latest updates.

### Guidance: Valuation Office Agency: information for local authorities

The Local Authority Engagement Team (LAE) works with Local Authorities (LAs), building partnerships which aim to support LAs in their interactions with the VOA and provide a consistent point of contact.

On this page, last updated on 31 March 2025, the LAE Team provide a curated reference guide of information to support LAs in their council tax, business rate and VOA activity.

### Policy Paper: Referendums relating to council tax increases (Principles)(England) Report 2025-26

This report, published on 3 February 2025, sets out council tax excessiveness principles ('referendum principles') for 2025 to 2026 which have been determined by the Secretary of State and which require approval by the House of Commons.

### Official Statistics: National non-domestic rates collected by councils in England: forecast for 2025 to 2026

This release provides data on the forecast of non-domestic rating income due to local authorities in 2025-26, including data relating to the amount of business rates reliefs forecast to be given to businesses. This release includes data from all 296 authorities.

The official statistics can be found here.

### News story: Third business rates agent suspended

The VOA has suspended engagement with Rate Masters Limited (trading as 'My Rates') whilst it conducts an investigation regarding a breach of its published agent standards. Click here for further information.

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## Inside this issue:

## Business rates information letters

See here for the latest business rates information letters issued by the MHCLG.

## Policy paper: Business rates: forward look

In the Autumn Budget, the government announced its intention to introduce two lower multipliers for Retail, Hospitality and Leisure (RHL) properties with Rateable Values (RVs) below £500,000. These will commence from April 2026 and will give long -term certainty and support to the high street, in contrast to the previous RHL relief which created a yearly cliff-edge.

Over the next two years, a series of engagements and reforms will take place to start a transformation to the system, alongside the routine revaluation of properties in 2026.

The amendments to the multipliers take effect from 1 April 2026.

The policy paper, which was published on 17 February 2025 can be found here.

## Non-Domestic Rating (Multipliers and Private Schools) Act 2025

The removal of charitable status from private schools takes effect from 1 April 2025.
The Non-Domestic Rating (Multipliers and Private Schools) Act 2025 received Royal Assent on 3 April 2025. Click here for further information.

## Local authority guidance: Business rates: Film studio relief

This guidance, published on 17 February 2025, and announced by the Chancellor on 6 March 2025, sets out the criteria for the film studio business rates relief scheme.

The full document can be found here.

## Our Tribunal Hearing Programme - April to June 2025

The profile and volume of appeal listings for Quarter 1 are:

| Tribunal Type | April | May | June | TOTAL |
|---|---|---|---|---|
| Council Tax | 48 | 50 | 51 | 149 |
| 2017/2023 Rating List | 27 | 25 | 25 | 77 |
| 2017 Rating List Complex Case | 1 | 0 | 0 | 1 |
| TOTAL | 76 | 75 | 76 | 227 |

## Stayed appeals

Following the receipt of a significant number of appeals on material change of circumstance challenges in relation to the closure of large shops, the Tribunal will consider 33 appeals the parties have identified as test cases.

Similarly, a significant number of appeals have been received on the grounds that there is an office over supply in London. A test case has been identified to move these forward.

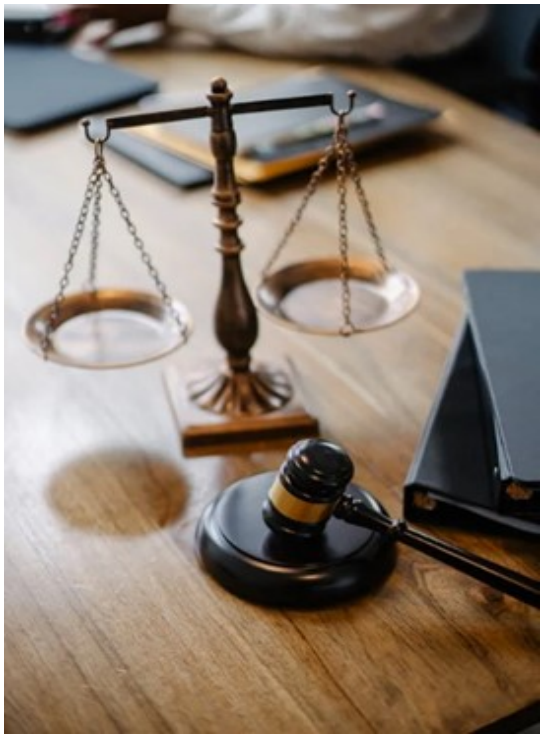
Council tax and invalidity notice appeals, where there is an issue over validity because a historic decision was made on the same facts by a former tribunal that pre-dates the Valuation Tribunal for England (VTE). These appeals are stayed pending the outcome of the Listing Officer's appeal to the High Court against VTE panel decision VT00026306.

# Decisions of the High Court

## Michael Stanuszek and Dawn Bunyan (No. 2) [2025] EWHC 225 (admin)

This High Court Judgment was the sequel to *Stanuszek v Bunyan* [2023] EWHC 3255 (admin). The first High Court judgment allowed Mr Stanuszek's case and his appeal was remitted back to the VTE for re-determination.

Following a re-hearing by the VTE Vice President, Mr Frazer Stuart, the appeal was again dismissed (see VT00012402). The Vice President being satisfied that the appeal property comprised six separate hereditaments that fell to be banded separately for council tax purposes. In doing so, the Vice President had reached the same conclusion as the original tribunal decision but he applied established legal principles to the agreed facts.



Mr Stanuszek appealed the second VTE decision to the High Court. At the second High Court hearing, both parties were in agreement that they wished to avoid a round three. So, if in the event, that the Judge found the Vice President's VTE decision to be flawed, the Judge was asked to determine the issues himself, rather than remit the appeal back to the tribunal for a second time.

Having been taken through by Counsel to the agreed facts and the law, The Honourable Mr Justice Saini concluded that the Vice President's decision was clearly correct. His summarised reasons were as follows:

First, each individual room is capable of being a discrete hereditament, as it is capable of physical definition by virtue of its four walls and lockable door.

Second, each of the individual rooms has its own separate rateable occupier, i.e. the individual tenant who resides in the room has the benefit of the Assured Shorthold Tenancy for the room. No other person makes any actual use of, or has any physical presence in the room, including the other residents in the house or the appellant himself. No other person has any right to enter the room, let alone on an exclusive basis, including the other residents of the house or the appellant himself.

Third, each room is thus capable of definition as a hereditament and is in discrete rateable occupation.

Fourth, on the established principles in *Cardtronics* and the other authorities cited above, each room is thus a discrete hereditament.

Fifth, the fact that each tenant needs to use the common parts to access their room and makes use of a shared social and kitchen area is not relevant.

Mr Stanuszek's appeal was therefore dismissed.

## Mercer Boffey and Lucy Dyer (Listing Officer) [2025] EWHC 113 (admin)

The appellant appealed the VTE President's decision to strike out his appeal on the basis that it had no reasonable prospect of success.

The appeal property was described as a charming Grade II listed detached Queen Anne house, dating from 1780, located in Petersham, an enchanting hamlet nestling idyllically between Royal Richmond Park and a picturesque sweep of the River Thames as it meanders towards the metropolitan hubbub of London and on to the sea. The property had been in band H since 1 April 1993 and it had been the family home since 2018.

On 15 April 2023, the appellant challenged his liability to pay council tax and sought the removal of his dwelling's entry from the valuation list on the basis that it failed to meet the definition of a hereditament for council tax purposes for the following reasons:

1. His property was not a dwelling for the purposes of section 3(2) of the Local Government Finance Act 1992 or a chargeable dwelling for the purposes of section 6(1) because a hereditament implies a financial interest in the property

### Consolidated Practice Statement (CPS)

**Please note**: the CPS was recently amended and changes were effective from 1 April 2024. The CPS can be found on the VTS website under VTE guidance.



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# Decisions of the High Court cont'd...

beyond mere occupation.

2. It was not rateable or chargeable because, where no permission to rent a property has been granted by the local authority, the property falls outside the "tax net" of the regulatory bodies and/or
3. there was no beneficial occupation of the property in circumstances where the property is not being used for some financial benefit. Beneficial occupation does not include using one's own domestic property for the purposes of living accommodation.
4. Domestic property falling within section 66(1) of the Local Government Finance Act 1988 is not a dwelling.

When Mr Boffey appealed to the VTE against the Listing Officer's refusal to well found his proposal, he requested that the tribunal deal with his appeal as complex.

When the complex case application was considered by the President, he formed the view that the appeal had no reasonable prospects of success and served notice of his intention to strike out. Mr Boffey subsequently made representations against the proposed strike out but these submissions failed to convince the President that the appellant's case had any merit and therefore the appeal was struck out.

Mr Justice Constable held that the President had the statutory power to strike out the appeal, in accordance with Regulation 10 of the tribunal's procedure regulations and there was no procedural error in him doing so, especially as before striking out, he had given the appellant the opportunity to make representations.

With regard to Mr Boffey's arguments about why he should not pay council tax, they were not novel and similar arguments had been considered and rejected by the Fordham J in *Doyle and Others v Roberts (LO)* [2021] EWHC 659. As the earlier judgment was not binding on the High Court, the question that arose was *Doyle* correctly decided? Justice Constable had no hesitation in saying it was and went on to dismiss the appeal. He therefore held that the President was correct in concluding, as a matter of law, that Mr Boffey's appeal stood no real prospect of success.

As a result, the appeal was dismissed.

# Decisions of the Upper Tribunal

## BNPPDS(J) Ltd and BCI Ltd and Amanda Hitchings (VO) [2025] UKUT 104 (LC)

An appeal against a VTE panel's decision which dismissed the appellant's appeal. The appeal property was a vacant warehouse which was subject to a programme of works, in readiness for it to be re-let. The works began on 28 November 2022 and were completed around April 2023.

Following the completion of the works, the property was occupied by McDonald's Restaurants who fitted it out as a "dark kitchen" supplying items solely for delivery. The cost of the works was just short of £172,000 which was more than five times the £31,250 Rateable Value of the property.

Some of the works clearly involved repairs, however, the Upper Tribunal (UT) found that some of the preparatory works undertaken in readiness for McDonald's phase of the works were not related to repair, because it involved the stripping out of items which were not replaced, including the sizeable mezzanine floor. Ironically, the Valuation Officer was unaware of the existence of the mezzanine floor and had not reflected any value for it within the assessment. Furthermore, some of the works involved significant re-modelling of the interior parts, which brought the case in line with *Monk*. Considering matters in the round, the facts showed that the property was not being subjected to an end of tenancy programme of works. Instead, it was being re-purposed from a warehouse to a delivery kitchen.

The UT therefore allowed the appeal and reduced the list entry to £1RV with effect from 28 November 2022.

## Emma Owen and Dawn Bunyan (VO) [2025] UKUT 42 (LC)

An appeal by the appellant against the VTE's decision to reduce the assessment of the property, a horse racing yard, to £24,250 Rateable Value.

Prior to determining the substantive valuation issue, the Upper Tribunal (UT) had to determine the scope of the proposal and the extent of its jurisdiction.



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## Decisions of the Upper Tribunal cont'd...

The appellant sought a deletion of the rating list entry, on the basis that it was domestic property. Prior to making the appeal, the appellant had employed the services of a professional rating surveyor who had undertaken the check and made the proposal on her behalf.

The UT reviewed the information provided, on behalf of the appellant at the check stage and noted that the ratepayer's intention was to notify the Valuation Officer (VO) of changes to the property details. The box for requesting a deletion was unticked. When the proposal was served on the VO, the proposal challenged the accuracy of the compiled list entry and sought a reduced entry of £21,250 Rateable Value with effect from 1 April 2017.

The UT referred to its earlier judgment in *Nelson Plant Hire Ltd v Bunyan (VO)* [2022] UKUT 309 (LC) where it examined whether it had the jurisdiction to consider a suggested division of the hereditament, having regard to the terms of the appellant's 'challenge' to the entry in the list which simply sought a reduction in the assessment. In that particular case, the 'check' referred to a division in assessment.

In *Nelson,* having reviewed the relevant authorities, the UT found its jurisdiction was restricted to the scope of the proposal. Emma Owen's appeal was more clear cut than *Nelson* and the UT held the VTE was correct in its determination that a request for a deletion was beyond the scope of the proposal.

In terms of the valuation exercise, the UT decided to reduce the assessment to £15,600 Rateable Value. Its starting point was to look at the main barn, which had been valued by the VO as an American barn. The UT agreed with the appellant that it was not as good as an American barn because of its agricultural origins. American barns are usually valued by 5% less than traditional box values. However, given the hybrid nature of the main barn in the appeal case, the UT applied a discount of 7½% and further discount of 5% to reflect the lack of natural light. In terms of the tone of value, a lower unadjusted box rate than adopted for the Midlands was adopted, before the discounts were applied. This was because Buckinghamshire was not a favoured location for horse trainers.

The VO's valuation of the 15 non-racing horse boxes was upheld as it was supported by agreement(s). The VTE's valuation of the Arena in its unrepaired state was also adopted.

The UT's valuation included adjusted values for the trotting area and the gallops and end allowances for the footpath, adverse topography and planning issues in allowing the appeal.

## Decisions of the VTE - Non-Domestic Rating List 2017

*Proposal challenging VO notice of alteration – ArcelorMittal and Lucy Formela-Osbourne (VO)*

This case provided further evidence, as if any was needed, that the check, challenge and appeals process was not working as it should.

After the appeal had been made, the Valuation Officer (VO) sought additional information from the appellant which as the President observed should have been sought during the challenge period. In addition, following an inspection a week before the hearing, the VO identified a significant shortfall in their survey area and a number of items of rateable plant and machinery that were not included in the assessment. There was therefore a dispute about factual matters which should have been resolved at check.

The President found the whole situation to be unsatisfactory. However, given the evidential restrictions in a rating appeal and the failure of the parties to agree basic facts, the President decided to proceed on the basis that the only matter he could legitimately decide was the issue in dispute referred to in the appeal.

The appeal property was a warehouse used for the storage of rolled steel coils. The issue in dispute between the parties was whether or not the basis of assessment should reflect the

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

fact that the property was heated. The appellant argued that no heating adjustment should be made to the base rate as the heating formed part of the trade process. Therefore, any uplift to reflect the value of the heating should be removed in line with the Supreme Court's judgment in *Iceland Foods v Berry (VO)* [2018] UKSC 15.

The appellant argued that the heating was essential to the trade process, in the winter months, as the temperature had to be maintained at 16 degrees to avoid the dew point. However, it was established that the thermostat was reduced to 12 degrees at weekends, when the warehouse was unmanned.

The appellant failed to submit any independent expert evidence or even the manufacturer's storage instructions to support its case.

It was also not explained what would happen in the summer months and whether high temperatures would affect the steel and whether protective measures needed to be put in place to avoid condensation. The President was mindful that seasonal weather variations can heavily impact temperature and relative humidity levels which could lead to condensation forming.

All warehouses required heating to some extent, especially if manpower was employed in the building. If an appellant party seeks to argue that the heating is essential to manufacturing operations or trade process, in order to qualify for a reduced base rate, they need to appear before the tribunal with at least some independent "expert" evidence to support their claim. Just relying on what their client told them, as the appellant's representative did, is only likely to result in one thing, an unsuccessful outcome. The appeal being dismissed.

The full decision can be found here

## Decisions of the VTE - Non-Domestic Rating List 2017

*Proposal seeking a deletion of the assessment owing to redevelopment works*


This appeal sought a deletion of the 2017 rating list entry between tenanted occupation on the grounds that the previous tenant had gone into liquidation and left their fit-out in place. The appellant submitted that redevelopment works were required to strip the property so that it could be re-let to a new tenant who would require their own branded fit-out. The appellant's representative stated that the unit was prime retail space which attracted a certain type of client and therefore the landlord had to redevelop the unit to a certain standard to generate rental interest.

The works required included demolition of the retail partitions and fit-out, strip out the kitchen and welfare facilities, strip out the wiring, and partial removal of the flooring and ceiling. The works were scheduled to take place between 13 March 2023 and 9 April 2023.

The panel did not find *Porter (VO) v Gladman Sipps* [2011] UKUT 2004 to be of assistance because it concerned properties which were yet to be entered into the rating list until they were capable of occupation for their intended use or purpose. It therefore did not accept the appellant's argument derived from *Porter v Gladman* that the subject property would require small power, welfare facilities and partitioning before being capable of occupation. The subject property was already a hereditament and there had been no overt act to change the nature of the hereditament.

The panel found that the wiring and plumbing were still in place and whilst fittings from the previous tenant were removed, the subject property was not stripped to its core condition. Although previous Tribunal decisions are not binding on the panel, it found *The restaurant Group v Lucy Formela-Osborne (VO)* (CHG101070212) to be persuasive as the facts in that case were similar to this appeal. The panel concluded that the works carried out to the subject property were more consistent with soft stripping. The work required represented disrepair which a reasonable landlord would be expected to undertake, in readiness for a re-letting, and consequently, the appeal property should remain in the rating list.

Click here to read the full decision.

## Decisions of the VTE - Council Tax Liability

*Reduction sought under Disability Reduction Regulations*

The appellant, who suffered from a visual impairment, had made an application for a disabled band reduction. He had applied for planning permission to convert the garage at the subject property into a sensory room. Permission had been granted, and the room was fitted out with a three pane glass window to maximise light when required, a blackout blind to assist in reducing harmful light that led to migraines, a carpet to provide sensory texture, a low level sofa along with a TV screen fitted at a lower level in order to utilise specific software and assistive technologies, whilst also using several musical instruments.

Following an inspection, photographs were provided by the council tax inspector of the converted garage. Blackburn with Darwen Borough Council concluded that the room is not a specialised sensory room that would warrant applying the disabled band reduction. It stated that "the fixtures and fittings were part of any dwelling that would/could be applied to any room of a dwelling whilst being used by all individuals regardless of a disability or not".

The appellant appealed to the billing authority stating that the inspection had been rushed, and the inspector had not allowed him time to explain how the room was used or to show him everything contained in the room. He stated that the inspector merely took a few photographs and then left as he was running late for his next appointment. However, the billing authority did not feel it appropriate to alter its decision and no reduction was granted.

At the hearing the appellant stated that he did not use the sensory room for work as suggested by the billing authority. He stated that he had a separate room in the house which was his office, and he worked from there. He stated he had musical instruments in the sensory room and magnification technology. The appellant explained that as the room was outward facing it had been deliberately made to look like a normal living room so that anyone who looked in would be unaware that it was occupied by a disabled person as he did not want to make himself vulnerable.

The panel was aware that for Regulation 3(1)(a)(i) of The Council Tax (Reductions for Disabilities) Regulations 1992 (as amended) to apply, the appellant must have a room, predominantly used for meeting his needs that was of essential or major importance to his well-being. In addition, there had to be a causal link between his use of that room and the extent and nature of his disability.

To be entitled to a reduction, the room must contain certain features that are regarded as essential, or of major importance to the wellbeing of the qualifying individual living in the dwelling. From the information provided, the panel was unable to see a causal link between the disability and the requirement for the additional room. The panel did not consider that the additional room was 'required' by the appellant to enable him to live in the property. The features shown in the photographic evidence such as a large television and lowered seating were such that they could be located in any room in the property as could a fitted carpet and blinds at the window. The panel therefore concluded that the criteria within Regulation 3(1)(a)(i) had not been met.

You can read the decision here

## Decisions of the VTE - Council Tax Liability

*Ancillary order for a repayment*

This matter related to the council tax liability for a property in Croydon used as emergency homelessness accommodation between August 2012 and the present day. Espressa Management Limited ("Espressa") brought these appeals on the basis that they challenged being held liable during void periods. But by the point of the first hearing, Espressa had conceded they were in fact liable during void periods, and the parties were agreed as to the extent of Espressa's council tax liability. There was effectively no dispute over the council tax liability for the Tribunal to adjudicate upon.

What remained in dispute between the parties related to repayment of allegedly overpaid council tax. Espressa contended that it had overpaid £35,019.70 in council tax and sought for the Tribunal to make an order for the repayment of that amount, together with £13,166.69 in interest (calculated



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

at 8% simple from the date of each payment). Counsel for Espressa relied upon the Court of Appeal's judgment in *Lone v London Borough of Hounslow* [2019] EWCA Civ 2206 where it was held, at [35], that the Tribunal has the power to make an order for the repayment of an amount that has been overpaid under Regulation 38(10) of the Tribunal's Procedure Regulations.

However, the Tribunal (Miss L Moses, Vice President) held that the Tribunal had no power to make such an order in the circumstances. The Vice President held that the power to deal with ancillary matters at Regulation 38(10) required the Tribunal to have made a primary order in the first place; it is not a freestanding power, it is there to deal with matters ancillary to the primary order. The Vice President also held that there was no power for the Tribunal to include interest in any such order.

The Vice President considered that what remained was effectively a debt claim against the London Borough of Croydon, rather than a dispute over council tax liability. Such matters stray outside of the Tribunal's jurisdiction under section 16(1) of the Local Government Finance Act 1992 and the particular specialism of the Tribunal to determine whether a dwelling is chargeable, who is liable to pay council tax for that dwelling, and the amount of that liability. Regulation 55 of the Council Tax (Administration and Enforcement) Regulations 1992 makes provision for repayments to be enforced through a court of competent jurisdiction (i.e. the County Court) and that this would be the more appropriate forum in this case.

But the Vice President also considered that, if she was wrong in the above views, that there was simply insufficient evidence to demonstrate that any of the alleged payments related to council tax overpaid in respect of the subject property. The schedule of payments and bank statement extracts showed payments were made to the London Borough of Croydon, but did not show what those payments related to, or that they were in respect of council tax at all.

The full decision can be found here.

## Decisions of the VTE - Council Tax Liability

*Class H exemption* (awaiting occupation by a minister of religion)

This council tax liability appeal concerns the Billing Authority's decision to refuse to categorise the subject property as an exempt dwelling under class H of the Council Tax (Exempt Dwellings) Order 1992. Class H is defined as *"an unoccupied dwelling which is held for the purpose of being available for occupation by a minister of any religious denomination as a residence from which to perform the duties of his office"*.


The subject property had been owned and occupied by the appellant's father until he went into care and then passed away. The appellant inherited the property but was not resident and submitted that, as a minister of religion, the property should be exempt as he was holding it vacant for his future occupation. The Billing Authority contended that this exemption category is usually applied to properties attached in some way to a religious building, such as a vicarage for clergy, and there was no evidence that the appellant choosing not to occupy the property constituted it being 'held' vacant specifically for a minister of religion.

The panel found that the appellant's submissions were largely focused on his complaints about the Billing Authority rather than providing evidence of how the test set out in the legislation was met. He stated that he was a minister of religion, but no evidence of this was provided to the panel. Nor did the appellant supply any evidence that he would be practicing as a minister of religion from the subject property, as he is not currently resident in the Billing Authority's area. The panel concluded that, even if it had been provided with evidence that the appellant is a minister of religion and had a confirmed post to act as such, there was nothing to demonstrate that the subject property was 'held' vacant for the purpose of providing occupation for such a minister. There was no evidence that the property was anything other than an unoccupied residential house, previously owned by the appellant's father which he later inherited.

After considering the evidence available the panel was not persuaded that the test for exemption was met, and the appeal was dismissed.

You can read the full decision here.

# Decisions of the VTE - Council Tax Liability

*Class G exemption (occupation prohibited by law)*

The appellant was aggrieved by the Billing Authority's (BA) determination not to award class G exemption for the appeal properties.

The appeals were made in respect of the following properties: Fair Rigg, The Ruskin, The Wordsworth, The Wainwright and The Windermere, Ferry View, Bowness-On-Windermere, Cumbria LA23 3JB. They were formerly part of one property, a guest house known as Fair Rigg which had been placed in the non-domestic rating list. The appellant company had purchased Fair Rigg and converted it into a number of holiday lets. The planning permission for the change of use stated that the accommodation could only be used as short term holiday letting accommodation although manager's accommodation was also allowed to be occupied on a long term basis.

The BA contended that under the class G exemption, the occupation of the appeal dwellings had never been prohibited by law, nor had they been kept unoccupied by reason of action taken under powers conferred by or under any Act of Parliament, with a view to prohibiting their occupation. Therefore, the appeal properties were capable of being occupied albeit only on a short term basis.

Therefore, the BA considered that it was not possible to award a class G exemption for the appeal properties as the occupation was not prohibited, just restrictions on the letting of the appeal property.

The appellant argued that in respect of the class G exemption, "occupied" meant "lived in". The appeal properties could not be "lived in" as the planning permission restricted them to being used for short term holiday letting. One could not "live in" a holiday let.

During questioning, he confirmed that there were no restrictions on the period of time that the appeal properties could be occupied.

Whilst the appellant argued that occupied meant "lived in", the panel was not persuaded by this argument. There was no order that prohibited or prevented the occupation of the appeal properties. They were available to be occupied any time of the year albeit with a restriction on the use for short term holiday letting only.

The full decision can be read here.

# Decisions of the VTE - Council Tax Valuation

*Former cemetery lodge*

The appeal property was a former cemetery lodge, located in front of an exhausted graveyard. The appellant Billing Authority (BA) had received the cemetery grounds and plots, two chapels and the cemetery lodge as part of an asset transfer from another BA on 1 April 2022.

The appellant had sought deletion with effect from 1 April 2022, the date that ownership had been transferred. The appeal had been made on the grounds that the property had been acquired in a very poor state of repair and was uninhabitable. The property had failed to sell when marketed, and it was estimated that it would cost around £300,000 to £400,000 in order to make it habitable.

It was acknowledged by the appellant that there was a difference between properties in a poor state of repair as opposed to being truly derelict. However, it was argued that the Town Council is the owner by default, and not a property developer with the funds to improve the property. Given the pressure on the council's finances, it was submitted that taxpayer's money should not be used to improve the lodge, nor used to pay the council tax for a property without any plans for development in such a dilapidated state.

The Listing Officer (LO) had considered that while the property was in poor repair at the relevant date, it had not deteriorated to the point where it was beyond reasonable repair, and it had therefore not ceased to be a dwelling for council



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

tax purposes. In support, reference was made to section 3 of the Local Government Finance Act 1992, the statutory repair assumption in The Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (SI 1992 No. 550), and *Wilson v Coll (Listing Officer)* [2011] EWHC 2824.

It was clear to the panel that the appeal property was in an uninhabitable state. However, the question of whether the property was inhabitable was not the correct test. The sole test for deletion was whether or not a property was beyond reasonable repair.

The appellant referred to an estimated cost of £300,000 to £400,000 to make the property habitable, which was around double the value estimated in 2018 when it was in a reasonable state of repair. As outlined in *Wilson v Coll*, the cost of the repairs was not a factor that could be taken into account by the panel. The appellant had sought to draw a distinction between *Wilson v Coll* and previous Valuation Tribunal decisions, as they related to individuals, rather than a town council in a unique position. However, the panel considered that the nature of the owner was not relevant to the consideration of whether the property was capable of reasonable repair.

Having considered the photographs and documentary evidence, the panel reached the conclusion that the property was in a poor state of repair, however, having regard to the character of the property and a reasonable amount of repair works being undertaken, it could have been occupied as a dwelling on 1 April 2022.

The panel dismissed the appeal as it was determined that the appeal property was a hereditament at the relevant date, and therefore the statutory assumption of reasonable repair had to be applied.

Click here to read the full decision.

## Decisions of the VTE - Council Tax Valuation

*Deletion from the valuation list sought following vandalism*

This appeal sought deletion of a dwelling's entry from the valuation list. The dwelling in question has been subjected to continual vandalism which had caused damage to the interior and facilities. The appellant had boarded up the windows and installed security fencing around the perimeter to help prevent further damage. The contention was that as of 1 April 2023, the subject property was beyond repair. The works required included repairs to the roof, windows and balcony doors; full refurbishment of the bathroom and kitchen, including repairs to the pipework; services such as gas and electricity would need to be reinstated and metres installed; replacement of all internal doors; new flooring and carpets throughout the property; external works to improve access and security; and removal of the perimeter security fencing.

The panel found that the question was whether the subject property remained a hereditament. Although the Supreme Court judgment, *SJ & J Monk (A Firm) v Newbigin (Valuation Officer)* [2017] UKSC 14, was referred to, it was not applicable in this case as both parties agreed that there was no scheme of works underway. However, this is not the only test. When deciding whether the subject property is a hereditament, there is also the 'truly derelict' test as provided in the High Court Judgment, *Wilson v Coll* (LO)[2011] EWHC 2824 Admin. The panel therefore considered, having regard to the character of the property and a reasonable amount of repair works being undertaken could the premises be occupied as a dwelling?

The panel found that there was a lack of evidence to support the appellant's argument that the property was structurally unsound. Having regard to the photographs provided and the works described, the panel concluded that this constituted typical repair works and did not go beyond reasonable.

The full decision can be read here.

# Decisions of the VTE - Council Tax Valuation

*Property entered into the council tax valuation list as it no longer met the criteria to be non-domestic*

The appeal property had previously been shown in the rating list as a holiday let. Following a change in legislation, the Listing Officer (LO) undertook a review of the property and determined that it was no longer commercial. The appeal property therefore entered the council tax valuation list with effect from 1 April 2023.

The property had not been made available for letting commercially for 140 days or more, and it had not been let for at least 70 days in the preceding year. These facts were not in dispute. The appellant had confirmed that the property had been marketed for sale and bookings had been paused. There had been no bookings in 2023 or 2024.

The appellant's dispute centred around the planning restriction that only allowed the property to be used as short term holiday accommodation. He argued that it could only be used for ten months per year for a maximum of 31 consecutive days and could not be used as a residence.

However, following the change in legislation with effect from 1 April 2023, the Non-Domestic Rating (Definition of Domestic Property) (England) Order 2022 introduced additional requirements regarding the listing of properties used as holiday lets. The subject property had fallen foul of the eligibility criteria and had been taken out of the rating list. In accordance with section 66 of the Local Government Finance Act 1988, as the property was not shown or required to be shown in the non-domestic rating list from 1 April 2023 it must be shown in the valuation list. The planning restrictions did not prevent the property from being shown in either list.

The appellant had further argued that if the appeal property must be placed in the valuation list, it should be included within the banding of the main house and should not be separately banded. The panel found that that the appeal property constituted a dwelling for council tax purposes in accordance with the Council Tax (Chargeable Dwellings) Order 1992 as it was physically a self-contained unit, capable of occupation.

On the basis that the property was a self-contained unit which was not non-domestic its entry must remain in the valuation list, and the appeal was dismissed.

The full decision can be found here.

VALUATION TRIBUNAL SERVICE

We welcome any feedback.

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