

# THE VALUATION TRIBUNAL FOR ENGLAND



*Council tax valuation appeal; Newly built detached house; band F; Council Tax (Situation and Valuation of Dwellings) Regulations 1992; Domblides v Listing Officer [2008] EWHC (Admin) 3271; Comparable sales evidence; Appeal dismissed.*

RE: Dunwoody, Atlanta Close, Wallingford OX10 6FG

APPEAL NUMBER: VT00006821

BETWEEN:	Mr M Dillon	Appellant
	and	
	Mrs D Bunyan (Listing Officer)	Respondent

PANEL: Mr D Hayes (Chairman)  
Dr P Thomson

CLERK: Ms R Muller

HEARING: Remote Hearing No. 1 on 4 March 2022

APPEARANCES: Ms A Fisher, Partner of the Appellant  
Mr A Miah, Representative of the Respondent

## Summary of decision

1. The appeal was dismissed, and the Council Tax band was confirmed at band F with effect from 13 March 2020.

## Introduction

2. The appeal had been brought in respect of the following: The appeal property had been entered into the Valuation List at band G with effect from 13 March 2020. A proposal had been served on the Listing Officer by the appellant, Mr Dillon, within six months of becoming the taxpayer in respect of the appeal property. Mr Dillon became the taxpayer after buying the appeal property on 13 March 2020 for £620,000 and as such, submitted a proposal, which was received by the Listing Officer on 22 June 2020. As a result of the proposal, the Listing Officer reduced the band of the appeal property from band G to band F with effect from 13 March 2020 and issued a notice to this effect on 28 August 2020.

3. However, Mr Dillon had proposed that the entry be reduced to band E and therefore submitted another proposal against the Listing Officer's Notice on 31 December 2020. Having considered the proposal, the Listing Officer had decided that the existing band was correct and issued this decision to Mr Dillon dated 15 February 2021. Mr Dillon appealed that decision to the tribunal dated 12 May 2021.
4. Under regulation 6 of the Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (SI 1992 No. 550), each valuation band represents a value that the dwelling might reasonably have been expected to realise, if it had sold in the open market by a willing vendor on 1 April 1991. The bands were set out in section 5(2) of the Local Government Finance Act 1992, with the relevant bands in relation to this appeal being:

Band E – values greater than £88,000 but no more than £120,000; and  
Band F – values greater than £120,000 but no more than £160,000.
5. The appeal property was a new detached house built in 2020. The appeal property had an area of 188m<sup>2</sup> reduced coverage area (RCA) and comprised of a living room, kitchen, three bedrooms and three bath/shower rooms. The property benefited from onsite parking for four vehicles.
6. The relevant date for the appeal was 13 March 2020, the date the appeal property was entered into the valuation list.
7. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with the Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.
8. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.
9. Mr Dillon, the appellant, stated that he could not attend the remote hearing, however, he requested that Ms Fisher, his partner attend on his behalf.
10. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

### **Preliminary matter**

11. Ms Fisher stated that Mr Dillon had disagreed with the measurement provided by the Listing Officer. She informed the panel that the Listing Officer had detailed the size of the property as 188m<sup>2</sup> RCA, when in fact, she had measured the property at 127m<sup>2</sup> RCA.

12. She stated that the difference in size was due to the fact that the first floor was separated into two parts, bedroom one being on one side of the property and bedroom two being on the other side of the property with a void area between both bedrooms. The only way to get from bedroom one to bedroom two was along a long walkway along the back wall, which was open to view the ground floor area. The space in between the two bedrooms was void space and should not have been included with the Listing Officer's measurements, as Ms Fisher stated there was no floor area.
13. She stated that Mr Dillon had referred to the issue of the measurements of the appeal property on many occasions to the Listing Officer, however, it had been disregarded. The Listing Officer stated that he had not received any correspondence from Mr Dillon or Ms Fisher with regards to the appeal property's measurements following the submission of his evidence to Mr Dillon.
14. The panel did consider whether an adjournment would be appropriate in order for the Listing Officer to go and view the appeal property. However, the Listing Officer stated that even if he did inspect the appeal property, his opinion of RCA would not change and the measurements he had provided would be the same.
15. The panel reviewed the details of how a property is measured using RCA. It was noted that RCA includes all areas except unconverted loft areas, integral garages, outbuildings, open balconies and internal areas with a head height of below 1.5m. The panel also noted that RCA is an external measurement, where a property is measured around the outside of the building and does not mention including or excluding any void areas within a property such as the appeal property, except for those mentioned above.
16. The panel, therefore, accepted the measurements provided by the Listing Officer of 188m<sup>2</sup>, as being the correct RCA for the appeal property.

## **Issue**

17. The correct valuation band to be applied to the appeal property.

## **Evidence and submissions**

18. A combined evidence bundle had been submitted by the Listing Officer, which included:
  - a summary of the appeal;
  - a copy of the regulation 17 notice;
  - a copy of the proposal and appeal form;
  - the Listing Officer's statement of case;
  - location plan and maps;
  - details of the appeal property and the comparable properties
  - a summary of the evidence provided by both parties;
  - extracts of legislation, including basis of valuation and bands;
  - a copy of the appellant's additional submission, along with the Listing Officer's rebuttal;
  - reference was made to the High Court decision of *Domblides v Listing Officer* [2008] EWHC (Admin) 3271.

19. The appellant requested the panel to confirm band E for the appeal property due to the evidence he had provided.
20. The Listing Officer requested that the panel confirm band F was the correct band for the appeal property and dismiss the appeal.

## Decision and reasons

21. In deciding the appeal, the panel had regard to relevant legislative provisions governing the valuation of dwellings for the purposes of determining into which council tax band it should fall. These are contained in the Council Tax (Situation and Valuation of Dwellings) Regulations 1992 SI 550 and, broadly, require a determination to be made of the amount the subject property could reasonably have been expected to have realised had it sold on the open market as at the AVD of 1 April 1991, subject to various assumptions.
22. Amongst these assumptions is the requirement to have regard to the physical nature of the property and its locality as they stood at a particular day, that being the 'relevant date'. The appeal resulted from a proposal made in response to the Listing Officer entering a new entry into the list for the property, so the 'relevant date' is the date applicable to the Listing Officer's entry. The panel is therefore looking to determine the valuation band that correctly reflects the amount the property might reasonably have been expected to have achieved had it sold on the open market on 1 April 1991, assuming that the property and its locality physically existed at that date as they did, in reality, as at 13 March 2020.
23. In the panel's opinion, the best evidence in determining council tax banding appeals would be that of an open market sale of the appeal property at or around 1 April 1991. In this case there was no sale around the valuation date of the appeal property, as it had not been constructed until 2020. Therefore, the panel went on to have regard to sales that had completed on comparable properties in the locality from around the 1991 valuation date being aware that any evidence of truly open market sales may be examined, and adjustments made to equate to the antecedent valuation date (AVD) of 1 April 1991.
24. However, from the *Domblides* judgement, the panel also understood that it was not unreasonable to determine a band by reference to tone, should one have been established in the locality.
25. To determine the matter before it, the panel looked at the sales and tone evidence for the comparable properties provided in this appeal. The location plans confirmed that these properties were within reasonable proximity to the appeal property.
26. The void area of the property was described by Ms Fisher as an atrium and considered a desirable feature of the property. The appeal property was a new build and had been carefully designed with the atrium area. The RCA measurement method does not make allowances for 'usable floor area'. Ms Fisher suggested the net internal area method should be used. Although the atrium is not floor space which can be used to walk upon, and net internal area may take this into account, the Panel were not persuaded that this property should be subject to a different basis of measurement because of the presence of non-usable floor space. Such an approach would lead to inconsistency in valuing the council tax list. As the property was unusual and not a standard detached house or bungalow, it noted that both parties had provided comparable evidence with regards to houses and dormer bungalows.

27. Ms Fisher referred to comparable properties of other detached properties of the following:

Address	Size (m <sup>2</sup> )	Details
Horseshoe Cottage, Beggarsbush Hill, Benson, Oxford OX10 6PL	101	A detached three bedroom dormer bungalow, with a single garage and in band E
Cobweb, Beggarsbush Hill, Benson, Oxford OX10 6PL	104	A detached three bedroom bungalow, with a single garage and in band E
Allnuts, Beggarsbush Hill, Benson, Oxford OX10 6PL	105	A detached two bedroom dormer bungalow, with a single garage and in band D
Salt Box Cottage, Beggarsbush Hill, Benson, Oxford OX10 6PL	176	A detached three bedroom dormer style house, with a single garage and in band F

28. The panel noted that the comparable properties were much smaller in size than the appeal property except for Salt Box Cottage and had been placed within band D or E. The panel also noted that Salt Box Cottage was similar in size to the appeal property and in the same band of F.

29. Ms Fisher referred the panel to the fact that the appeal property was disadvantaged due to being in close proximity to an RAF pylon, Grundon waste site and a larger factory, which was close by. Mr Dillon has submitted within his appeal form that the above had a serious impact on the value of the appeal property and the comparable properties provided by the Listing Officer do not have the same type of disadvantages as listed above.

30. Ms Fisher stated that the appeal property was located on a close, however, as the waste management site was located close by, there was a high level of noise from the traffic going to the site. She informed the panel that she could hear the traffic across the field and also the noise from the pylon, which was located in the opposite direction.

31. The panel considered the disadvantages detailed by Ms Fisher, however, the location plan showed that the appeal property was far enough away for the noise of the pylon or traffic with regards to the waste management site not to have an effect of the value of the appeal property. The panel also noted that Cobweb, which was a neighbouring property located on the main road next to the close, showed that the disadvantages did not affect the sales value it had achieved when sold in 1994, shown below.

32. The Listing Officer provided comparable properties of sales around the AVD of 1 April 1991, which he stated were reliable evidence on which to form an opinion of what the appeal property would have been worth, if it had existed then. The comparable property of Cobweb was a detached bungalow, ground floor only and the other comparable property was a detached house. Both were smaller than the appeal property within the local area and within band E. The Listing Officer stated that this showed that larger detached properties would sell for more than band E properties.

Address	Size (m <sup>2</sup> )	Sales details
Cobweb, Beggarsbush Hill, Benson, Oxford OX10 6PL	104	This property was a bungalow, which sold on 14 February 1994 for £116,500 and was in band E.
12 Chaucer Court, Ewelme, Wallingford, Oxon OX10 6HW	127	This property was a detached house, which sold on 28 June 1991 for £125,000 and was in band E.

33. The panel noted that both properties were much smaller in size. It placed great weight to the comparable property of 12 Chancer Court, which had sold very close to the AVD of 1 April 1991, (circa three months post AVD) and had achieved a sales value at the lower end of the range of band F values, even though it had been placed into band E. Therefore, the panel held that the appeal property, being much larger in size would have achieved a sales value within the range of band F values.

34. The Listing Officer also referred to following detached three bedroom bungalows / houses, to show the tone of the list within the local area:

Address	Size (m <sup>2</sup> )	Details
October Cottage, The Street, Ewelme, Wallingford, Oxon OX10 6HU	91	This property was a detached bungalow, which was much smaller in size, located circa 0.8 miles from the appeal property and has been in band E since 1 April 1993. There had not been any changes made to the band of this property.
Pine Ridge, High Street, Ewelme, Wallingford, Oxon OX10 6HQ	115	This property was a detached bungalow, again much smaller in size, located circa 0.9 miles from the appeal property and had been in band F since 1 April 1993. There had not been any changes made to the band of this property.
Eyres Close, Ewelme, Wallingford, Oxon OX10 6LA	129	This property was a detached house, much smaller in size to the appeal property. It was located circa 1.1 miles from the appeal property and has been in band F since 1 April 1993. There had not been any changes made to the band of this property.

35. The panel noted that all of the comparable properties were smaller in size, but two of these properties had been in band F since the start of the Valuation List in April 1993 and the bands had not been changed. This showed that a tone had been set with regards to properties of that size within the local area.

36. The panel considered that even taking the measurements provided by the appellant of 127m<sup>2</sup>, the correct band would still have been band F. This was proven by the sale of 12 Chancer Court, which took place in June 1991 and the tonal evidence of Eyres Close, which was similar in size at 129m<sup>2</sup> and had been in band F since 1 April 1993.

37. A tone is established when a number of properties of the same type, sharing similar age, size, character and location are attributed the same council tax band. Over a period of time, these bandings may have been challenged, accepted or determined by the Valuation Tribunal. The panel held that the tonal evidence the Listing Officer had presented supported that the appeal property had been placed into the correct band.
38. Therefore, having full regard to the arguments and submissions from both parties, the panel concluded that there was no persuasive evidence to show that the current entry in the list of band F for the appeal property was incorrect or excessive. It was for Mr Dillon to provide the evidence to show that this band was incorrect, and the panel found that he had not done so. Accordingly, Mr Dillon's appeal against the Listing Officer's decision was dismissed.

**Date:** 22 March 2022

**Appeal number:** VT00006821