

# THE VALUATION TRIBUNAL FOR ENGLAND



*Council tax banding appeal; The Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (as amended); The Council Tax (Alteration of Lists and Appeals) Regulations 2009 (as amended); Comparable sales evidence; Comparable band evidence; Relevant transaction; Tone of the list; Appeal allowed.*

RE: Chersonese, 1 Broomleaf Road, Farnham GU9 8DG

APPEAL NUMBER: VT00010396

BETWEEN:	JW	Appellant
	and	
	Dawn Bunyan (Listing Officer)	Respondent

PANEL: Mr C Derrick (Senior Member)  
Mrs C Parkes

CLERK: Ms S Hodgson

ON: 21 March 2023

REMOTE HEARING

APPEARANCES: Mr M Stewart for the appellant  
Mr M Ali of the Valuation Office Agency for the respondent

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## Summary of decision

1. Appeal allowed. The band of the appeal dwelling was reduced to Band F with effect from 26 September 2021.

## Introduction

2. The appeal process began when the appellant served a proposal on the Listing Officer (LO) at the Valuation Office Agency (VOA) on 12 October 2021. The appellant made her proposal

following a LO's notice dated 26 September 2021. The LO issued her decision in respect of the proposal on 9 December 2021, and this was challenged by way of an appeal to the Valuation Tribunal on 17 February 2022.

3. The physical state of the property and its locality are taken to be as they were at the "relevant date", which for the purposes of this appeal was 1 August 2018, that being the date on which the property sold. The effective date of the band ascribed was 26 September 2021 which was the date the LO altered the valuation list.
4. The subject property was originally in the valuation list from 1 April 1993 at Band F and measured 161m<sup>2</sup>. The appellant's purchase of the appeal property in August 2018 triggered a review of the band. The appeal property now measures 185m<sup>2</sup> and has four bedrooms and two bathrooms. The appellant believed the property was excessively valued for council tax at Band G.
5. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

## **Issue**

6. The issue in dispute was the accuracy or otherwise of the existing Band G entry in the valuation list for Chersonese, 1 Broomleaf Road, Farnham.

## **Evidence and submissions**

7. A consolidated hearing bundle was provided that included both parties' respective cases, details of the subject property, details of properties for comparison, relevant extracts of legislation, and the High Court case of *Domblides v The Listing Officer* [2008] EWHC 3271 (Admin). Mr Ali asked for the band of the subject dwelling to be confirmed at Band G, with effect from 26 September 2021.
8. Mr Stewart for the appellant asked for the band of the subject property to be reduced to Band F.

## **Decision and reasons**

9. The panel was aware that regulation 3(1) of the Council Tax (Alteration of Lists and Appeals) Regulations 2009 permitted the LO to increase a dwelling's valuation band following both a 'material increase' and a 'relevant transaction'. However, regulation 11(2) of the same regulations restricts the effective date for such an increase to the day on which the valuation list is amended (i.e., it cannot be retrospective).
10. Section 24(10) of the Local Government Finance Act 1992 ('the Act') defines a 'material increase' and a 'relevant transaction' as:

### *Material increase*

‘...any increase which is caused (in whole or in part) by any building, engineering or other operation carried out in relation to the dwelling, whether or not constituting development for which planning permission is required’

### *Relevant transaction*

‘...a transfer on sale of the fee simple, a grant of a lease for a term of seven years or more or a transfer on sale of such a lease’

11. It was clear that the alterations to the subject property were a ‘material increase’ as the property had increased in size following extensions to the property in 2018, however Mr Ali was unable to confirm what the extensions were. The purchase of the appeal dwelling by the appellant was a ‘relevant transaction’ within the meaning of section 24(10) of the Act. Therefore, the panel was satisfied that the LO was empowered to review and increase the valuation band if she considered it appropriate.
12. Regulations 6(1) and 6(2) of the Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (as amended) provide that the value of a dwelling shall be taken to be the amount which it would, subject to certain assumptions, reasonably have been expected to realise if sold in the open market by a willing vendor on the antecedent valuation date (AVD) of 1 April 1991.
13. The bands under consideration in this appeal and the respective ranges of values, as at the AVD level of values, were as follows:
  - Band F: Values exceeding £120,000 but not exceeding £160,000
  - Band G: Values exceeding £160,000 but not exceeding £320,000
14. The panel was therefore required to determine the band applicable to the appeal dwelling on the basis of its sale in a hypothetical transaction at the AVD.
15. In deciding this appeal, the panel must weigh all the evidence presented but the best evidence must always be sales at or close to the AVD; either on the subject property or one similar to it, as stated in the High Court decision of *Domblides v Listing Officer [2008] EWHC 3271 (Admin)*, referred to in the Respondent’s case. This judgement provides guidance on the weight to be attached to different types of evidence in such valuation appeals. Other evidence taken from the bands placed on comparable dwellings in the locality can also be considered as this can demonstrate a ‘tone’ of value of similar dwellings, which can be used to assist in establishing the correct Council Tax band.
16. Mr Ali provided sales evidence of one detached bungalow on the same street as the subject property, 101 Broomleaf Road, which sold for £152,000 on 1 March 1991 and measured 134m<sup>2</sup>. He also provided details of 80 Broomleaf Road, which was a detached bungalow that measured 168m<sup>2</sup> and was in Band G, to demonstrate a tone in the area.

17. The panel heard from Mr Ali that by using a crude valuation he had calculated the sale price of the subject property in 1991 to be £203,500 by taking the sale price of 101 Broomleaf Road and working out a price per square metre of £1,100 and then applying this to the subject property.
18. The panel gave no weight to this argument as it considered this calculation to be a form of indexing and was aware of the limitations that exist on the reliability of indices as evidenced in the authoritative judgment referred to in the LO's submission, *Domblides v The Listing Officer* [2008], where the judge expressed his reservations about the use of such indices for this purpose. They are a guide rather than an accepted valuation method.
19. The panel then reviewed the evidence put forward by Mr Stewart. Counterpoint, Three Stiles Road was a detached bungalow located 1.2 miles from the subject dwelling and was in Band E. Mr Ali had provided its reduced covered area (RCA) as 170m<sup>2</sup>. The panel was aware that extensions had been made to Counterpoint that increased its size to approximately 220m<sup>2</sup> RCA, but that the band could not be reviewed until a relevant transaction took place.
20. 14 Three Stiles Road was a detached bungalow located 1.2 miles from the subject dwelling and was in Band F. Mr Ali had provided the RCA as 186m<sup>2</sup>. Mr Ali stated that the sales of 14 Three Stiles Road supported a Band G valuation, however the panel noted that the only sales provided in the evidence bundle were from 2003, 2004, and 2016.
21. In addition to the comparable properties, Mr Stewart provided a sale of the subject property from 1996. The sale was for £121,750 on 6 December 1996 when it measured 161m<sup>2</sup>. The panel noted that this sale was at the bottom of the Band F range of values at a time when both parties agreed that the housing market was returning to 1991 levels after falling in the early 1990's.
22. The panel considered the appellant's argument that the subject property was located next to the railway line. It noted that Mr Ali's comparable properties were located at the far end of Broomleaf Road, around a curve in the road, and were separated from the railway line by three plots and two sections of road. The panel reviewed the sale of the subject property in 1996 and the sale of 101 Broomleaf Road and was of the view that the difference in sale price indicated a difference in value between the two locations.
23. The panel placed the most weight on the sale of the subject property in 1996 at the bottom of the Band F values when it was 161m<sup>2</sup>. When compared with Counterpoint in Band E and 14 Three Stiles in Band F which the panel found to be comparable to the subject property and of a similar size to its current state, it was of the opinion that the value of the subject property would not have exceeded £160,000 at the AVD.
24. The panel was not as persuaded by the two properties provided by Mr Ali and found that it was difficult to establish a tone with limited evidence. While the sale of 101 Broomleaf Road was close to the AVD, the panel placed less weight on this than the sale of the subject property due to the difference in location mentioned above.
25. Consequently, the appeal was allowed, and the band of the subject property is reduced to Band F.

## **Order**

26. Under the provisions of Regulation 38 (2) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the VTE orders the Listing Officer to alter the valuation list within two weeks of the date of this order to show Chersonese, 1 Broomleaf Road in Band F with effect from 26 September 2021.

**Date:** 12 April 2023

**Appeal number:** VT00010396

### **Right of appeal**

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the High Court on a question of law. Any such appeal should be made within four weeks of the date of this decision notice.