

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax valuation list appeal; Council Tax (Situation and Valuation of Dwellings) Regulations 1992 as amended; dwelling valued on entry into the valuation list as a new dwelling after the original was deleted; comparable properties; Sales of similar properties close to the AVD supported band G; appeal dismissed.

RE: 129 Graham Road, Wimbledon, London SW19 3SL ("the appeal property")

APPEAL NUMBER: VT00011026

BETWEEN:	Mr BT	Appellant
	and	
	Dawn Bunyan (Listing Officer)	Respondent

PANEL: Mrs T Watson (Presiding Senior Member)
Mrs N Crawshaw (Senior Member)

ON: 26 April 2023
AT: Valuation Tribunal Service, 2nd Floor, 120 Leman Street,
London E1 8EU

CLERK: Mr J Massey

APPEARANCES: Mr BT (Appellant)
Miss T Stevens (Respondent's representative)

Summary of decision

1. Appeal dismissed. The accuracy of the Listing Officer's band G entry was upheld for the dwelling in its extended state.

Introduction

2. On 22 November 2021, the Listing Officer (LO) received a proposal from the appellant, seeking a reduction to band F, following receipt of the LO's notice informing him of the band G entry for the appeal property in the valuation list with effect from 16 June 2021. After considering the content of the proposal, the LO decided that it was not well founded and

issued a decision notice to that effect on 21 January 2022. On 3 March 2022, the Tribunal received an appeal against that notice from the appellant.

3. The appeal property was a semi-detached house which, according to the LO's measurements, had a reduced covered area (RCA) of 231m². According to the details provided by the LO, the appeal property consists of a two living rooms, a kitchen, four bedrooms and four bathrooms. It had been entered in the valuation list at band G with effect from 16 June 2021. It had previously been entered in the list at band F with effect from 1 April 1993 as a three bedroom semi-detached house with an RCA of 155m² before being deleted from the list on 1 October 2017.
4. With the agreement of the parties the panel varied the procedure outlined in the Consolidated Practice Statement PS8- Model Procedure and requested the respondent present her evidence first.
5. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

6. The issue before the panel was the band that should apply to the appeal dwelling when assessed in accordance with the statutory basis of valuation. This requires estimation of the amount the dwelling might reasonably be expected to have realised if it had been sold on the open market at the antecedent valuation date (AVD) of 1 April 1991, subject to a number of statutory assumptions as set out in Regulation 6(2) of the Council Tax (Situation and Valuation of Dwellings) Regulations 1992 as amended.
7. Whilst the valuation has to be made having regard to 1 April 1991 levels of value, physical facts relating to the dwelling and its locality have to be considered as at the relevant date, which in this case was 16 June 2021, being the date that the appeal property entered the valuation list as a new dwelling.
8. The range of 1991 values for each council tax valuation band are set out in section 5(2) of the Local Government Finance Act 1992 (the 1992 Act). In this case, the appellant sought a reduction to band F (values exceeding £120,000 but not £160,000) whilst the LO defended her entry of Band G (values exceeding £160,000 but not £320,000).

Evidence and submissions

9. Prior to the hearing, the panel was provided with a joint evidence bundle containing the submissions from both parties. The evidence pack included, amongst other things, the appellant's proposal and appeal submissions, the LO's decision notice, details of the appeal property and others considered comparable by the parties, the LO's Regulation 17 notice containing a schedule of sales evidence. It also included extracts from the relevant legislation and copies of the High Court judgment of *Domblides v Listing Officer* [2008] EWHC 3271 (Admin) and the Court of Appeal judgement *Ladies Hosiery & Underwear Ltd v Middlesex Assessment Committee* (1932).
10. The appellant considered that the alterations did not justify an increase in band and there were properties similar in size to the extended appeal property on the same street which were in a lower band.

11. The respondent considered that the evidence of sales and bands of properties comparable in size, accommodation and location to the extended appeal property supported its assessment at band G.

Decision and reasons

12. In 2015 the original dwelling was in poor repair and required major renovations and extensions in order for it to become the appellant's home. Further to proposals made by the appellant, the LO determined that the property was no longer capable of occupation as a dwelling and it was deleted from the list with effect from 1 October 2017. Following the completion of the renovation and extension works a new entry was made in the list for the appeal property at band G with effect from 16 June 2021.
13. The appellant was aggrieved as he considered that he had not been informed by the respondent that when the appeal property was re-entered in the valuation list following the completion of the building works, there was a risk that its band would be increased. He stated that had he known this, he may not have requested that the appeal property be deleted from the list, and it would have remained in band F.
14. Section 24 of the Local Government Finance Act 1992 ("the 1992 Act") concerns alterations to the valuation list and makes provision for the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 ("the ALA Regulations"). A copy of these regulations was provided to the parties at the hearing. Regulation 3 of the ALA Regulations states (so far as is relevant to this appeal) –

"Restrictions on alteration of valuation bands

3.(1) No alteration shall be made of a valuation band shown in a list as applicable to any dwelling unless—

- (a) since the valuation band was first shown in the list as applicable to the dwelling—*
(i) there has been a material increase in the value of the dwelling and a relevant transaction has been subsequently carried out in relation to the whole or any part of it;
....."

Section 24 of the 1992 Act provides definitions for 'material increase' and 'relevant transaction'. However, it is not necessary to set these out in this decision.

15. After considering the wording of Regulation 3 of the ALA Regulations, the panel was satisfied that this was not a case of altering an existing entry in the list and therefore the restrictions do not apply. The original property was deleted from the valuation list and, from that point, ceased to be a chargeable dwelling for council tax purposes. The dwelling shown as 129 Graham Road, Wimbledon, London SW19 3SL in the list now is not the same dwelling that existed before the building works and therefore it must be valued afresh.
16. The panel could understand why the appellant may be aggrieved by the lack of information imparted when he made his proposals to delete the previous entry in the list for the appeal property. However, the panel can only determine in this appeal whether the entry of the new dwelling in the valuation list at band G was reasonable. It was aware that the appellant had instigated another appeal seeking the appeal property's deletion from the valuation list from an earlier date, in which both parties were contending that the appeal property was not a chargeable dwelling for the period it was undergoing building works. The panel was therefore satisfied that it had been correctly removed from the list and the fact that the

appellant may not have been advised of the implications of this, was a matter between the appellant and the Valuation Office Agency (VOA).

17. The panel therefore turned to consider the matter of the valuation of the appeal property as a new dwelling. It was aware of the High Court decision of *Domblides v Listing Officer* [2008] EWHC 3271 (Admin), included in the LO's evidence. This judgment found that, in the absence of sales from around the AVD on the appeal property or one similar to it, the band could also be determined by a tone, should one be found to have been established in the locality. A tone of value/band was established when a number of properties, similar in size, character, quality, detachment and location were attributed the same level of assessment/band which, over time, had not been challenged. Assessments that had been challenged and subsequently agreed by parties or determined by a Tribunal panel were also instrumental in establishing a tone.
18. It is generally accepted that property values were falling at the April 1991 valuation date and the fall continued into 1994 after which the market started to rise and returned to April 1991 values in the late 1990s. Until the last few years property prices had risen quite sharply. Band G covered properties with values exceeding £160,000 but not £320,000 as at the 1 April 1991 valuation date. Therefore, for a reduction to be awarded it must be shown that the appeal property was worth £160,000 or less as at the 1 April 1991 valuation date. Evidence of sales which occur after the valuation date can be subject to changes in the market and also by the popularity of different property styles, making such later information less valuable than sales which took place close to 1991.
19. The appeal property itself was purchased by the appellant on 1 February 1996 for £117,000 which the appellant considered would have placed it within band E at its original size of 155m², and he did not consider that the extent of the alterations to the appeal property warranted an increase of two bands. The panel considered that, given the fall in property values after the AVD, the value of the appeal property would have been higher at the AVD than in February 1996. This was supported by the sale of 125 Graham Road, a three-bedroom semi-detached house of 155m² which had sold for £157,000 on 19 April 1989 and 141 Graham Road, which was 10m² larger than the unextended appeal property with similar accommodation and had sold for £172,000 on 3 June 1989.
20. The LO had provided examples of band E properties on Graham Road. Numbers 31, 91, 104 and 134 Graham Road were all two or three-bedroomed terraced houses with RCAs ranging from 96m² to 118m². They had sold for between £120,000 and £128,000 between May 1989 and 31 March 1994 which the panel considered would indicate that they would have achieved a value right at the top of the range for band E, had they sold at the AVD.
21. From the LO's sales evidence of smaller band E properties and similar sized band F properties the panel concluded that the unextended and unimproved appeal property would have sold for a value well into the range for band F at the AVD. This was supported to some extent by the fact that it was in that band for 23 years without challenge either by the appellant or the previous taxpayer. The panel then proceeded to consider whether the improvements and extensions to the appeal property warranted an increase from band F to band G.
22. The LO had not been able to identify any relevant 1990s sales evidence for semi-detached houses on Graham Road similar in size and accommodation to the extended appeal property. Instead, she had provided three examples of four-bedroom and five-bedroom semi-detached houses on Graham Road which had been similarly extended and had their bands

increased from F to G. Numbers 123, 128 and 143 Graham Road were smaller than the extended appeal property with RCAs ranging from 205m² to 226m² and had had their bands increased between July 2020 and May 2022 to reflect their current attributes.

23. The panel did not consider that the bands of these properties indicated that a tone of banding had been established for extended semi-detached houses on Graham Road smaller in size than the extended appeal property. However, it did find their current bands useful in determining the correct band for the extended appeal property. The largest of these properties, 128 Graham Road, had sold for £1,625,000 on 20 December 2021 at its extended size of 226m². The LO had provided sale details for 75 Graham Road, which had sold for £805,000 on 24 June 2021. 75 Graham Road was a three-bedroom terraced house with an RCA of 104m² and therefore similar in size, character, accommodation and location to 31, 91, 104 and 134 Graham Road which sold for in the region of £120,000 in the early 1990s.
24. Assuming that a similar differential in value between terraced houses and extended semi-detached houses existed at the AVD as it did in 2021, the panel concluded that the extended appeal property, being larger than 128 Graham Road, could reasonably have been expected to achieve roughly twice the value achieved by the band E terraced houses had it existed and sold at the AVD, and therefore well into the range of values for band G.
25. The panel considered that this evidence, coupled with the sales evidence for unextended semi-detached houses on Graham Road indicated strongly that band G was not excessive for the appeal property as it stood at the relevant date for this appeal.
26. In support of a lower band for the appeal property, the appellant had referred to 109, 111, 125, 128, 130, 141, 143 and 153 Graham Road which he contended had undergone similar or more extensive extensions than the appeal property and were in a lower band.
27. The panel noted that numbers 128 and 143 had been extended, and further to relevant transactions their bands increased from F to G. Miss Stevens stated that the bands attributed to the remainder of the appellant's comparable properties were based on their being recorded as much smaller than the extended appeal property. However, as the billing authority does not always pass on information regarding properties which have been extended, she stated the attributes of these properties would be reviewed and updated if required. She noted that 125 Graham Road had planning permission for a loft extension in 1999 but its band was based on its recorded size of 155m². Likewise, 141 Graham Road had planning permission for an extension in 2019 but its band was based on its recorded size of 165m².
28. In considering the current band of the appellant's comparable properties, the panel referred to the Court of Appeal case introduced by the respondent; *Ladies Hosiery and Underwear Ltd v Middlesex A.C* [1932]. It was held that if a hereditament has been correctly assessed according to the definition of gross value (or net value) the assessment could not be altered merely because similar hereditaments in the vicinity had been undervalued. In this case it agreed with the respondent that where the bands of properties were out of line with the evidence, or based on incorrect attributes, they held little weight in determining the correct band to be assigned to the appeal property.
29. During the hearing the appellant had queried the LO's recorded attributes for the appeal property, which he contended had one 'through' living room rather than the two detailed by the LO. The panel considered that any negative effect on the value of the extended appeal

property at the AVD resulting from this would have been outweighed by its larger size in relation to the LO's comparable band G properties.

30. The appellant considered that he had been punished for restoring a historic building which would now continue to provide a high standard of accommodation following his improvement for many years to come. While the panel did not dispute that he may have prolonged the life of the appeal property, it found that the law to be applied in this appeal was that governing the valuation of dwellings for council tax purposes and such matters are not relevant to this exercise.
31. The appellant had also contended that the effective date of 16 June 2021 for the appeal property's entry in the valuation list at band G was incorrect. Miss Stevens agreed that this should be amended to 12 January 2022. However, the clerk advised the panel that the effective date had not been challenged within the appellant's proposal, which had sought an amendment to band F with effect from 16 June 2021. The panel could not therefore consider the effective date in this appeal but only determine the correct valuation band. If the appellant wishes to challenge the effective date this will require a fresh proposal to the LO on those grounds, although the panel has been advised by Miss Stevens that the LO has already agreed to make the requested change to the effective date.
32. Although the appellant had provided a number of arguments to cast doubt on the reliability of the band for the appeal property, the panel was unable to apply any significant weight to these arguments. The panel found the sales evidence of smaller and broadly similar properties in the locality was the best evidence to determine the band. Therefore, the panel was more persuaded by the respondent's evidence which showed that the appeal property should be placed in band G and it dismissed the appeal.

Date: 10 May 2023

Appeal number: VT00011026

Right of further 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.
