

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax valuation appeal; Local Government Finance Act 1992; The Council Tax (Chargeable Dwellings) Order 1992; The Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009; Self-contained unit; Capable of use as separate living accommodation; Appeal dismissed.

RE: 52 Green Lane, Crawley RH10 8JP

APPEAL NUMBER: VT00012291

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

PANEL: Mrs A Fielder (Presiding Senior Member)
Mr F J Rogers (Senior Member)

CLERK: Ms S Hodgson

ON: 7 June 2023

REMOTE HEARING

APPEARANCES: The appellant
Mr I Smith of the Valuation Office Agency for the respondent

Summary of decision

1. Appeal dismissed. Annexe 1 and Annexe 2, 52 Green Lane are separate entries in the valuation list at Band A, and 52 Green Lane is confirmed at Band F in the valuation list with effect from 23 February 2022.

Introduction

2. The appeal process began when the appellant served a proposal on the Listing Officer (LO) at the Valuation Office Agency (VOA) on 13 March 2022. The appellant made his proposal to

aggregate the two annexes with the main house and reduce the band of the main house to Band E from the date of his purchase, 12 February 2021. The LO issued her decision in respect of the proposal on 12 May 2022 and this was challenged by way of an appeal to the Valuation Tribunal on 27 July 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 12 February 2021, that being the date on which the appellants purchased the property and requested the annexes were deleted from.
4. The main house, 52 Green Lane, was a three-bedroom, detached bungalow, with three bathrooms, one living room, and off-street parking. It measured 188m². The property had been extended to the rear and on the first-floor by the previous owners. The property was originally a two-bedroom bungalow that measured 81m². The band had been increased from Band E to Band F with effect from 23 February 2023.
5. There were two annexes associated with the hereditament. Annexe 1 measured 11m² and Annexe 2 measured 16m². Both annexes had bathroom facilities, kitchen facilities, living areas, and external entrances. At the relevant date, both annexes at no internal access to the main house. The annexes had been entered in the valuation list as self-contained units, each at Band A, with effect from 23 February 2022.
6. With the agreement of the parties, the panel varied the procedure outlined in the Consolidated Practice Statement PS8 - Model Procedure and invited the respondent to present his evidence first.
7. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

8. The issues for the panel to decide were the accuracy or otherwise of the existing separate entries in the valuation list for Annexe 1 and Annexe 2 at 52 Green Lane, and the accuracy or otherwise of the existing Band F entry in the valuation list for 52 Green Lane.

Evidence and submissions

9. A consolidated hearing bundle was provided that included both parties’ respective cases, location maps, photographs of the subject property, photographs of the annexes, a real estate brochure and floorplans for the subject property, details of properties for comparison and relevant extracts of legislation. Mr Smith asked for the band of 52 Green Lane to be confirmed at Band F, and the two annexes to be confirmed as separate entries at Band A, all with effect from 23 February 2022. The appellant was seeking an aggregation of the annexes and the main house, with a reduction to Band E.

Decision and reasons

10. 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).

11. 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'

12. It was clear that the alterations to the subject property were a 'material increase' as the property had increased in size by 107m² following extensions to the property, in addition to two separate annexes being created, by the previous owner. 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.

13. Section 3 of the Local Government Finance Act 1992 defines the meaning of a dwelling as being that which would have been a hereditament in section 115 of the General Rate Act 1967 had it remained in force:

"hereditament" means property which is or may be liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list.

14. The Court of Appeal case *John Laing & Son Ltd v Kingswood A.C., Thornbury R.D.C. and Gloucestershire C.V.C.* [1948] sets out the four ingredients of rateable occupation that need to be met to be a hereditament. These are actual occupation, exclusive occupation, beneficial occupation, and the occupation must not be too transient.

15. The Council Tax (Chargeable Dwellings Order) 1992 (the "Order") brought into existence self-contained units as an alternative type of dwelling. Article 2 of the Order provides definitions of "single property" and "self-contained unit":

"single property" means property which would, apart from this Order, be one dwelling within the meaning of section 3 of the Act;

“Self-contained unit” means –

- (a) a building or part of a building;*
- (b) a caravan; or*
- (c) a boat*

which has been constructed or adapted for use as separate living accommodation.

Article 3 of the Order states:

3. *Where a single property contains more than one self-contained unit, for the purposes of Part I of the Act, the property shall be treated as comprising as many dwellings as there are such units included in it and each such unit shall be treated as a dwelling.*

16. The panel found that the annexes were not separate hereditaments as there were no tenants in rateable occupation on the relevant date. Whether the annexes were hereditaments or not was not in dispute by the parties.
17. The panel then considered whether the annexes were separate self-contained units as defined in article 2 of the Order. To be classed as a self-contained unit, they needed to be capable of use as separate living accommodation. The panel noted there was no dispute between the parties that the areas described as the annexes each had a living area, a kitchen area, a bathroom and an external entrance.
18. In relation to the annexes, the appellant argued that they were used by the family as a guest room and a study. When the property was purchased, it was as one house and at the time there was only one council tax band. The appellant contended that it was unfair for the annexes to incur their own council tax charge. He stated that if he knocked the walls out, there would be access to the main house again.
19. The panel must consider the annexes as they were at the relevant date. The panel referred to the photographs provided by the appellant, and noted his comments and the floorplans provided. It was the panel's opinion that based on this evidence and the legislation, the two annexes had clearly been constructed for use as separate living accommodation, and therefore required to be a separate dwelling in the valuation list.
20. The panel then needed to consider the band of the main house. The band had been increased from Band E to Band F following the sale to the appellant. The panel was therefore required to determine the band applicable to the subject dwelling on the basis of its sale in a hypothetical transaction at the antecedent valuation date (AVD) of 1 April 1991.
21. 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 AVD.

22. The bands under consideration in this appeal and the respective ranges of values, as at the AVD level of values, were as follows:
- Band E: Values exceeding £88,000 but not exceeding £120,000
 - Band F: Values exceeding £120,000 but not exceeding £160,000
23. The panel considered the appellant's argument that when he purchased the property it was in Band E and it was his belief it should remain in Band E for fairness. He stated he checked everything before purchasing the house and it was not right that once he had bought the house, the band was increased. He contended that the previous owner paid Band E council tax for the property in the same state, and since his purchase no changes have been made. Therefore, it was his contention that as the property has not changed, the band should not change either.
24. As above, the panel had already determined that, based on the legislation, the LO was entitled to review the band of a property where changes had been made to the property that constituted a material increase, and a subsequent sale of the property had taken place, as was the case with 52 Green Lane. Therefore no weight was placed on the appellant's argument of fairness as this was not a consideration within the relevant law.
25. The panel reviewed the comparable properties put forward by Mr Smith. All of the comparable properties were in the same lane as the subject property, and those in Band F ranged from 117m² to 149m². It was the panel's opinion that these were a good indicator of tone in the immediate vicinity and noted that the subject property was significantly larger than all of the Band F comparables.
26. Two sales had been provided from close to the AVD. 25 Green Lane sold for £85,000 on 3 November 1992, had two bedrooms and measured 90m², and 56 Green Lane sold for £121,250 on 19 February 1991, had three bedrooms and measured 114m². Both properties were in Band E.
27. The panel found that the sales of these two properties close to the AVD supported a Band F valuation for the subject property. Number 56 was 74m² smaller than the subject property when it sold at the bottom of the Band F range of values, just 1.5 months prior to the AVD. The panel held that the subject property in its current state would have achieved a sale in excess of £120,000 had it sold on 1 April 1991.
28. The burden of proof was on the appellant to persuade the panel that the banding of the subject property was incorrect. The panel found that the appellant had not provided any evidence to support his contention that the subject dwelling should be reduced to a Band E.
29. Consequently, based on the evidence provided, the panel held that 52 Green Lane was not considered to be excessively valued in the current valuation list, and Annexe 1 and Annexe 2 were confirmed to be two separate self-contained units under article 2 of the Order.
30. Therefore, the appeal was dismissed in full.

Date: 6 July 2023

Appeal number: VT00012291

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.