

# THE VALUATION TRIBUNAL FOR ENGLAND



*Council tax valuation appeal; material increase; band C in dispute; semi-detached bungalow; loft conversion; sales evidence; comparable properties; appeal dismissed.*

RE: 6 The Larches, Ormesby, Middlesbrough TS7 9DG

APPEAL NUMBER: VT00013181

BETWEEN: J W Appellant  
and  
Ms A Hitchings (Listing Officer) Respondent

PANEL: Mr I Lonsdale (Presiding Senior Member)  
Mr D C Gardner (Senior Member)

CLERK: Mrs L Horne

REMOTE HEARING ON: Tuesday 21 March 2023

APPEARANCES: The appellant  
Ms A Pearson representing the Listing Officer

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## Summary of decision

- 1 Appeal dismissed. The panel confirmed the Listing Officer's decision to increase the assessment of the appeal property from band B to band C with effect from 17 April 2022.

## Introduction

- 2 The appeal had been brought in response to a Listing Officer's Notice which had increased the appeal property's assessment from band B to band C with effect from 17 April 2022.
- 3 Following a material increase (extension/alteration) carried out by the previous owner, together with a relevant transaction (sale of the appeal property to the appellant on 10 February 2022), the Listing Officer had undertaken a review which had led to the decision to increase the band.

- 4 The appellant disputed the band C assessment and sought reinstatement of band B in a proposal received by the Listing Officer on 16 May 2022.
- 5 The Listing Officer issued a decision notice on 21 July 2022, which stated that after a review of the information held there would be no change to the increased band of band C. In response, the appellant submitted an appeal to the Valuation Tribunal on the grounds that the appeal property had been bought as a two bedroom property with boarded loft space.
- 6 When the appeal property entered the council tax list at band B on 1 April 1993 it had been a two bedroom semi-detached bungalow with a reduced covered area (RCA) of 76m<sup>2</sup>.
- 7 The RCA includes all the area measured externally but excludes eaves overhang, open balconies, covered ways, external passages, uncovered loft areas, attached and integral garages, conservatories and open or small enclosed porches.
- 8 Following alterations made by the previous owner, as at the date of the appellant's purchase (the relevant date), the RCA had increased to 97m<sup>2</sup>. The accommodation comprised a living room, kitchen, two bedrooms and a bathroom on the ground floor, and two rooms in the converted loft area. The property had the benefit of a single garage and driveway.
- 9 The appellant was unable to join the hearing via Microsoft teams, but was able to fully participate in proceedings on her mobile phone.
- 10 This Tribunal decision document is not and does not purport to be a verbatim record of proceedings. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

## **Issue**

- 11 The issue to be determined was whether the Listing Officer had correctly increased the band of the appeal property from band B to band C.

## **Evidence and submissions**

- 12 The bundle provided by the Listing Officer contained the parties' respective cases and supporting documents and included the following: location plan, layout plan and photographs of the appeal property; mortgage valuation and structural defect appraisal; photographs and details of comparable properties;

extracts of relevant council tax legislation; and reference to the High Court case of *Domblides v Listing Officer* [2008] EWHC 3271 (Admin).

- 13 In consideration of the increased size of the appeal property, sales evidence, and comparable properties, Ms Pearson contended that the appeal property would have achieved a sale price in excess of £52,000 if it had sold on 1 April 1991.
- 14 The appellant explained that she had bought a bungalow due to her arthritis, and she did not use the loft area as living space. The loft conversion did not have Building Regulations approval, and while the structural engineer deemed it to be of a good enough standard, the appellant considered that it was a boarded out loft space accessed via very steep stairs; according to the mortgage valuation, it had not added any value to the property.

### **Decision and reasons**

- 15 The appeal before the Tribunal had arisen due to there being a “material increase” in the value of the appeal property, followed by a “relevant transaction”. Regulation 3 of The Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No. 2270) states:

‘(3) No alteration shall be made of a valuation band shown in the list as applicable to the 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; or
  - (ii) ...;
  - (iii) ... ‘

- 16 Section 24(10) of the Local Government Finance Act 1992 defines ‘material increase’ and ‘relevant transaction’ as:

“material increase’ in relation to the value of a dwelling, means 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’ means 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.’

- 17 After having regard to the above legislation, together with the fact that the appeal property had undergone a material increase (extension/alterations), followed by a relevant transaction on 10 February 2022, the panel found that both limbs of the test had been satisfied and the Listing Officer had been correct in reviewing its assessment to include the property's loft conversion.
- 18 With reference to the photographs and the structural report, the panel was satisfied that the converted loft rooms should be classed as living space and therefore included in the total RCA of 97m<sup>2</sup>.
- 19 Regulation 6 of the Council Tax (Situation and Valuation of Dwellings) Regulations 1992, as amended, stated that the value of any dwelling for council tax purposes should be taken to be the amount which it might reasonably have been expected to realise if it had been sold in the open market by a willing vendor on 1 April 1991, the antecedent valuation date (AVD) assuming that the size, layout and character of the dwelling, and the physical state of its locality were the same as at 1 April 1993 (the relevant date).
- 20 However, for material increase valuations, the physical state of a dwelling's locality, size, layout and character must be assumed to be the same as on the date of the relevant transaction, i.e. the date of the sale. Therefore, the panel had to determine the value of the appeal property on 1 April 1991, taking into account its size, layout and character as at 10 February 2022.
- 21 Where no actual April 1991 sale exists for a property, the panel was aware that the dwelling should, where possible, be valued by reference to other similar properties in the locality which had sold on or close to the valuation date of 1 April 1991. This is done in order to obtain guidance on the levels of value passing for similar properties in the area at that time. The bands adopted for comparable properties in the locality also assists the panel in arriving at the correct level of value to be applied, where no direct evidence of sales is available as this can demonstrate a 'tone' of value of similar dwellings..
- 22 The valuation bands which reflect capital values as at the antecedent valuation date (AVD) of 1 April 1991 are set out in section 5(2) of the Local Government Finance Act 1992, with the relevant bands in relation to this appeal being:

Band B – values exceeding £40,000 but not exceeding £52,000;

Band C – values exceeding £52,000 but not exceeding £68,000.

- 23 The panel found support for band C with reference to the comparable properties presented by the Listing Officer.
- 24 The panel considered 19 Laburnum Road, TS7 9DJ to be a particularly relevant comparable, as it was a two bedroom semi-detached bungalow of 98m<sup>2</sup>. It had sold for £62,500 on 29 January 1993 and had been assessed at band C. As outlined by Ms Pearson, it was generally accepted that the property market was in decline at the AVD, and did not recover until the late 1990s. It was therefore reasonable to assume that if 19 Laburnum Road had sold on 1 April 1991, it would have sold for more than £62,500. This demonstrated to the panel that the appeal property, similar in size, location and accommodation, would have achieved a value within the range for band C.
- 25 In support of an established tone at band C, Ms Pearson provided an extract of the council tax valuation list which detailed 27 properties from postcode TS7 9D% (Cedar Road, Laburnum Road, Lilac Road, Pine Road, and The Larches). The panel noted that they were all semi-detached bungalows in band C, which ranged between 83m<sup>2</sup> and 118m<sup>2</sup>. As such, the panel was satisfied that at band C, the appeal property was assessed in line with similar properties in the locality.
- 26 In appeals of this nature, the burden of proof rests on the appellant to illustrate that the increase in band is incorrect. The panel concluded that the weight of the evidence presented demonstrated that the increase to band C was not excessive.
- 27 Accordingly, having regard to the above conclusions, the panel confirmed that the appeal property, in its extended condition, was correctly placed in band C, with effect from 17 April 2022. The appeal was therefore dismissed.

**Date:** 3 April 2023

**Appeal Number:** VT00013181

### **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.