

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax valuation list appeal; accuracy of band entry in the list; sales and tonal evidence; Dombldes v Listing Officer [2008] EWHC (Admin) 3271; Ladies Hosiery v West Middlesex Assessment Committee [1932] RA 679; appeal dismissed.

RE: 56 Mountford Close, Wellesbourne, Warwick CV35 9QQ

APPEAL NUMBER: VT00013241

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

PANEL: Mr S Chappell (Presiding Senior member)
Ms P Tueje (Senior member)

CLERK: Mr R Gath IRRV (Hons)

REMOTE HEARING on 27 October 2023

APPEARANCES: J W (appellant, who was assisted by her husband)
Mr A Wakley (Listing Officer's representative)

Summary of decision

1. Appeal dismissed. The panel made no change to the band of the appeal property which is currently band F.

Introduction

2. The appeal process began when the appellant served a proposal on the Listing Officer (LO) on 23 May 2022. The proposal challenged the LO's notice, placing the property in band F effective from 8 May 2022. In making his proposal, the appellant sought a reinstatement of the original band E entry. After considering the merits of the proposal, the LO determined that the proposal was not well founded and a decision notice to this effect was issued on 13 September 2022. The appellant's appeal was received by the Tribunal on 4 October 2022.

3. The appeal property was a four bedroom detached bungalow originally built in the 1950/1960s with a reduced covered area (RCA) of 178m². It originally had an RCA of 80m². However, following improvements the band was increased with effect from 19 September 2021 following a relevant transaction (sale)¹. The RCA includes all the area measured externally, but excludes eaves overhang, open balconies, covered ways, external passages, uncovered loft area, attached and integral garages, conservatories and porches. This ensures all properties are measured in a consistent way.
4. This appeal was previously heard and determined before a Valuation Tribunal panel on 10 July 2023, and a decision issued on 7 August 2023. The appellant requested a review of the decision by the Valuation Tribunal for England (VTE), and this was carried out by Mr G Garland (President of the VTE), who issued his decision on 20 September 2023. His decision was to revoke and set aside the decision and to have the appeal heard afresh (de novo) before a new panel.
5. In order to assist the appellant and with the agreement of all parties, the panel varied the model hearing procedure and invited the LO's representative to present his case first.
6. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

7. 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.
8. 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 22 September 2021, when the appellant had purchased the appeal property. The effective date if the appeal was successful was 8 May 2022, when the alteration of the list took effect.
9. In this case the appellant sought a reinstatement of the original band E entry (values greater than £88,000 but no more than £120,000) whilst the LO defended the entry of Band F (values greater than £120,000 but no more than £160,000). Therefore, for the appeal to be successful and the band to be reduced to band E it must be shown that the appeal property would have sold for no more than £120,000 as at 1 April 1991.

Evidence and submissions

10. The LO had provided the hearing bundle which included a copy of the proposal, the appeal form, the Regulation 17 notice, a map of the area, details of the appeal property and the LO's comparable properties, extracts of the relevant

¹ Regulation 3 of the Council Tax (Alterations of Lists and appeals) Regulations 2009

Decision and Reasons

11. To determine the appeal, firstly the panel had to consider whether the appeal property was a bungalow or a house. There were no arguments that the appeal property was originally a bungalow. However, the previous owner had built a two storey extension to the rear of the appeal property, keeping the front of it as a bungalow. The appeal property was required to fit in with the style and character of properties within the locality. Where the extension joined the original roof, a window had been added. The appellants argued that they considered the appeal property to be a house as the planning application referred to the appeal property as a house and the appellants considered the appeal property to be a house as they go 'upstairs'.
12. To further support their argument the appellants provided a definition of a bungalow from the RICS website. It stated that the definition of a bungalow was established in the judgment of *Ward v Paterson* [1929] 2 CH 396 which defines a bungalow as "a building of which the walls, with the exception of any gables, are no higher than the ground floor, and of which the roof starts at a point substantially not higher than the top of the wall of the ground floor and it does not matter in what way the space in the roof of a building so constructed is used". As the walls of the rear extension were higher than the ground floor, the appellants considered their property to be a house.
13. Whilst the rear extension did meet the definition of a house, the front of the appeal property remained as a bungalow. It had the look, feel and presentation of a bungalow at the front. The panel therefore considered that as the appeal property was originally a bungalow and that it was only the extension that did not meet the definition of a bungalow as the front part of the appeal property remained a bungalow. It was also noted that, by their own admission the respondents conceded that part of the first floor had limited head height. The panel therefore concluded that the appeal property although somewhat unusual in design, in terms of the locality was more akin to a bungalow, rather than a house.
14. Once the panel decided that the appeal property was more akin to a bungalow, the panel then considered the LO's sales evidence. Where no actual April 1991 sale exists for the appeal property, the dwelling should, where possible, be valued by reference to other similar properties in the locality which had sold on or close to 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.
15. The panel found the sales evidence for the LO's comparable properties compelling, in particular 37 Wellington Close which had a RCA of 108m² and had sold four days after the AVD for £112,000. The panel also noted that two other properties, 28 Newbold Close and 21 Oxford Way, which had RCAs of 113m² and 96m² respectively had sold for £105,000 and £115,000 respectively. These sales demonstrated to the panel that the appeal property would have sold in the mid-range of the band E range of values at its original size of 80m² and a property that was now over double the size would fall within the band F range of values.

16. The panel understood from the High Court judgment of *Domblides v Listing Officer* that it was not unreasonable to determine a band by reference to tone, should one have been established in the locality. A tone of band was established when a number of properties, similar in size, character, quality, detachment and location were attributed the same level of band which, over time, had not been challenged. Council tax bands that had been challenged and subsequently agreed by parties, or determined by a tribunal panel, were also instrumental in establishing the tone.
17. When the bands for the locality were initially determined in 1993 a tone had not been established as the initial bandings could be challenged. However, the bands were now in a more settled stage in the life of the valuation list after 30 years.
18. The panel noted that the respondent's tonal evidence of 32 Gloster Gardens which was 39m² smaller than the appeal property had been placed in band F. The panel also noted that 29 Mountford Close which had a RCA of 84m² and had been placed in band D, had a broadly similar extension to the appeal property increasing its RCA to 203m² and had now been placed in band F. This demonstrated to the panel's satisfaction that a tone at band F had been established for detached bungalows in the locality, around the size of the appeal property.
19. Turning to the appellant's arguments, she argued that the appeal property should initially have been placed in band D and therefore it should only have increased to band E. The panel applied some weight to this argument as 29 Mountfield Close was the same as the original bungalow and that property had been placed in band D. Mr Wakley was unable to explain the reason for this. Nonetheless, it had remained at band E unchallenged for many years and the panel had to look at the band the property would fall into now, not what it originally should have been. Furthermore, it was not unusual for properties which have been improved to increase by two or more bands and therefore the panel did not consider this argument to be a strong one.
20. The appellant had also produced a pie chart and graph to show the bands of properties within Mountford Close to demonstrate that the majority of detached houses and bungalows fell within the band E range of values. However, the panel applied little weight to this evidence as it did not show the sizes of the properties or if any of them had been improved and had not yet been sold.
21. Turning to the appellant's comparable properties, she referred to numbers 7, 26, 34 and 62 Mountford Close which were similar in size to the appeal property and had remained in a lower band. Mr Wakley had explained that the bands for numbers 26 and 34 were being reviewed as the properties had been improved and subsequently sold and Numbers 7 and 62 had not been sold.
22. The clerk referred the Tribunal to the judgment of *Ladies Hosiery v West Middlesex Assessment Committee* which was authoritative. In his judgment Scrutton L.J. at p.p. 686-688 stressed the "vital principle" of rating law that "*each hereditament should be independently assessed*" and that correctness should not be sacrificed to ensure uniformity but if possible to "*obtain uniformity by correcting inaccuracies rather than making an inaccurate assessment in order to*

secure uniform error". The panel concluded that those assessments where the LO were reviewing the bands were not reliable to determine the band for the appeal property.

23. The panel understood how frustrating it was for the appellant, as there were similar sized or larger properties in the locality and they had remained in a lower band. However, the above authority was binding on the panel and it could not take into account comparable properties that had not been reviewed or sold.

24. It was acknowledged by both parties that the appeal property was unusual in design, however, no reliable evidence was presented to the panel to prove that the appeal property, as it now stood, would have sold within the band E range of values. Given the totality of the LO's evidence, this suggested that the appeal property should be placed in band F and the panel dismissed the appeal.

Date: 22 November 2023

Appeal number: VT00013241

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.