

# THE VALUATION TRIBUNAL FOR ENGLAND



*Council Tax Liability Appeal; Class J exemption; The Council Tax (Exempt Dwellings) Order 1992 (SI 1992 No. 558), as amended by The Council Tax (Exempt Dwellings) (Amendment) Order 1994 (SI 1994 No. 539); appeal dismissed.*

RE: 269 Whitehall Road, Bradford BD11 1BH

APPEAL NUMBER: VT00015330

BETWEEN	MS	Appellant
	and	
	Leeds City Council	Respondent

PANEL: Miss K Marsden (Presiding Senior Member)  
Mrs AE Fielder

CLERK: Mrs H Beresford

REMOTE HEARING ON: 10 October 2023

APPEARANCES: The Appellant  
Miss A Walker, representing the Billing Authority

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## Summary of decision

- 1 Appeal dismissed. The panel upheld the billing authority's decision to refuse a class J exemption in respect of the appeal property.

## Introduction

- 2 This appeal was brought in respect of the following: The billing authority issued a decision notice on 11 November 2022, which outlined the reasons why a class J exemption could not be applied in respect of 269 Whitehall Road, Bradford BD11 1BH. The period in dispute was 1 September 2022 onwards.

3 In response, this appeal is brought by the appellant pursuant to section 16(1)(b) of the Local Government Finance Act 1992 (the “Act”). The appeal was received by the Tribunal on 22 February 2023.

4 In order to assist the appellant, the billing authority’s representative, Miss Walker, agreed to give her evidence first.

5 This decision document is not and does not purport to be a verbatim record of proceedings.

## **Issue**

6 The issue in dispute concerned whether the circumstances of the appellant and the appeal dwelling had met the qualifying criteria for a class J exemption.

## **Evidence and submissions**

7 In advance of the hearing, the panel was presented with the appellant’s appeal documents and an evidence bundle which included contributions from both parties to this appeal. To summarise, it comprised various correspondence between the parties and reference to relevant legislation.

## **Decision and reasons**

8 The panel considered the relevant legislation.

9 The Council Tax (Exempt Dwellings) Order 1992 SI 558, as amended, provided the following criteria for exemption under class J:

An unoccupied dwelling which was previously the sole or main residence of a person who is an owner or tenant of the dwelling and who-

(a) has his sole or main residence in another place for the purpose of providing, or better providing, personal care for a person who requires such care by reason of old age, disablement, illness, past or present alcohol or drug dependence or past or present mental disorder; and

(b) has been a relevant absentee for the whole period since the dwelling last ceased to be his residence;

“Relevant absentee” in relation to a dwelling means a person who is detained elsewhere in the circumstances mentioned in Class D(1)(a) of article 3 or who has his sole or main residence elsewhere in any of the circumstances mentioned in Class E(a), Class I(a) or Class J(a) of that article.

10 The appellant’s parents had been residing at his address (287A Whitehall Road) for some time as they needed care. After failing health, the appellant’s father passed away in

November 2021, however, his mother continued to live with the appellant and his wife at 287A Whitehall Road as she needed constant care. Over ten years the appellant had been building the appeal property 269, Whitehall Road. The council issued a completion notice giving a date of completion for the appeal property of 12 November 2021; this date was later amended to 1 September 2022. Consequently, the appellant became liable for empty property council tax charges for the appeal property. The panel noted that Leeds City Council do not allow any discount for unoccupied property. The appellant disputed that the property was complete and was advised by the billing authority of his right to appeal to this Tribunal, however, no appeal was ever made.

- 11 The appellant was aggrieved at having to pay council tax for the appeal property; he argued that he could not move in because he and his wife had to remain at 287A Whitehall Road to care for his mother. The appellant contacted the billing authority in October 2022 and was advised that unfortunately the appeal property did not qualify for a discount under The Council Tax (Exempt Dwellings) Order 1992 SI 558, as amended Class J.
- 12 The panel understood the appellant's frustration, however it concluded that the appeal property was unoccupied during the period in dispute, as the appellant was living at 287A Whitehall Road in order to provide care for his mother. Unfortunately, as he had never lived at the appeal property, it was not his previous sole or main residence, and therefore class J could not apply. The appeal was therefore dismissed.

**Date:** 25 October 2023

**Appeal Number:** VT00015330

**Appeal rights:**

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.