

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax banding appeal; The Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (as amended); The Council Tax (Alteration of Lists and Appeals) Regulations 2009 (as amended); Doblides v The Listing Officer [2008] EWHC 3271 (Admin); Relevant transaction; Comparable sales evidence; Comparable band evidence; Appeal dismissed.

RE: 31 Valley Drive, Handforth SK9 3DN

APPEAL NUMBER: VT00016340

BETWEEN: PK Appellant
and
Amanda Hitchings Respondent
(Listing Officer)

PANEL: Mrs X Holt (Presiding Senior Member)
Ms C Y Jones (Senior Member)

CLERK: Ms S Hodgson

ON: 16 November 2023

REMOTE HEARING

APPEARANCES: The appellant
Ms R Lowe of the Valuation Office Agency for the respondent

Summary of decision

1. Appeal dismissed. The entry in the list at Band G is confirmed with effect from 15 May 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 17 October 2022. The appellant made his proposal following a LO notice increasing the band to G. The LO issued her decision in respect of the

proposal on 26 January 2023, and this was challenged by way of an appeal to the Valuation Tribunal on 5 April 2023.

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 30 March 2022, that being the date on which the property sold. The effective date of the band ascribed was 15 May 2022 which was the date the LO altered the valuation list.
4. The subject property was originally in the valuation list from 1 April 1993 at Band E when it measured 120m² reduced covered area (RCA) and was a three bedroom, detached house with two living rooms and one bathroom. The appellant’s purchase of the appeal property in March 2022 triggered a review of the band. The appeal property was extended and now measured 250m² RCA and had three bedrooms, three living rooms, an open plan dining/kitchen, three bath/shower rooms, and benefitted from off street parking. The appellant believed the property was excessively valued for council tax at Band G.
5. 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 her evidence first.
6. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

7. The issue in dispute was the accuracy or otherwise of the existing Band G entry in the valuation list for 31 Valley Drive.

Evidence and submissions

8. A consolidated hearing bundle was provided that included both parties’ respective cases, photographs and floorplans of the subject property, details and photographs of properties for comparison, information from the website Rightmove, relevant extracts of legislation, and the High Court case of *Domblides v Listing Officer* [2008] EWHC 3271. Ms Lowe asked for the band of the subject dwelling to be confirmed at Band G, with effect from 15 May 2022, and the appellant was seeking a reduction to Band F.
9. The size of the subject property was agreed between the parties at 250m². This was confirmed in open tribunal and floorplans of the property were included in the evidence bundle.

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 more than doubled in size following a double- and single-storey side extension and a single storey rear extension. The property increased in size from 120m² to 250m². 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. 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 antecedent valuation date (AVD) of 1 April 1991.
14. The bands under consideration in this appeal and the respective ranges of values, as at the AVD level of values, were as follows: Band F (values exceeding £120,000 but not exceeding £160,000), and Band G (values exceeding £160,000 but not exceeding £320,000).
15. The panel was therefore required to determine the band applicable to the appeal dwelling on the basis of its sale in a hypothetical transaction at the AVD.
16. In deciding this appeal, the panel must weigh all the evidence presented but the best evidence must always be sales at or close to the AVD; either on the subject property or one similar to it, as stated in the High Court decision of *Domblides*, referred to in the respondent's case. This judgement provides guidance on the weight to be attached to different types of evidence in such valuation appeals. Other evidence taken from the bands placed on comparable dwellings in the locality can also be considered as this can demonstrate a 'tone' of value of similar dwellings, which can be used to assist in establishing the correct Council Tax band.
17. The appellant argued that the subject property was not a four-bedroom house as it had originally been referred to in the LO's decision notice and evidence submission. The panel heard that a room on the ground floor that was marketed as a fourth bedroom was actually used

as a study and would not be used as a bedroom in the future. The panel reviewed the floorplans of the property and was of the opinion that the use of the room was subjective and regardless of if it was used as a study or a bedroom, it still added to the habitable space within the property. In addition, two of the bedrooms in the subject property were located over two floors. The panel was satisfied to accept that the property was currently being used as a three-bedroom, three living room house, with an additional open plan dining area, however it did not consider that this reduced the value of the subject property.

18. The panel heard from the appellant that he had overpaid for the subject property due to personal circumstances and referred the panel to a recent sale of 34 Valley Road, which was used by the respondent as a comparable property, and of 2 Dean Road which the appellant had introduced as a comparable property. The panel did not place weight on the recent sales as they were too far removed from the AVD to be useful in determining the value of the subject property had it sold on 1 April 1991.
19. The panel reviewed the sales evidence submitted by Ms Lowe. 30 Valley Drive measured 120m² and sold for £118,000 on 11 January 1991. This indicated to the panel that prior to the extensions, the value of the subject property was at the very top of Band E.
20. The panel heard from Ms Lowe that the property market was falling in the early 1990's and returned to 1991 values around 1997. A sale of New Dwelling Adj 38 Bulkeley Road achieved £158,000 on 29 October 1997 and the property measured 191m². The panel noted that this sale was at the top of the Band F range of values.
21. Ms Lowe also referred to three properties that measured between 210m² to 246m² that were in the locality and were in Band G. One of the properties had been in the valuation list since 1 April 1993 with no challenges to the band.
22. 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 sufficient evidence had not been provided to support the appellant's contention that the subject dwelling should be reduced to a Band F.
23. The panel placed the most weight on the sales of the comparable properties close to the AVD, and it was of the opinion that the evidence supported a sale of the subject property in excess of £160,000 had it sold on the AVD.
24. Consequently, based on the evidence provided, the panel held that 31 Valley Drive was not considered to be excessively valued in the current valuation list and therefore, the appeal was dismissed.

Date: 15 December 2023

Appeal number: VT00016340

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.