



## VALUATION TRIBUNAL FOR ENGLAND

*CT Liability appeal: Section 16, Local Government Finance Act 1992; Hereditament; Self contained outbuildings; Council Tax (Reduction for Annexes) (England) Regulations 2013; appeal dismissed.*

APPEAL NUMBER: VT00019084

RE: Stibbington Hall, Church Lane, Stibbington PE8 6LP  
(the "subject property")

BETWEEN:	C.H	Appellant
	and	
	Huntingdonshire District Council (Billing Authority)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Tuesday 1 October 2024

BEFORE: Gary Garland, (President)

CLERK: David Slater (Registrar and Chief Clerk)

APPEARANCES: C.H (Appellant)  
Julian Hunt (Appellant's Counsel)  
Zoe Warren (Billing Authority's representative)

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## DECISION AND STATEMENT OF REASONS

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### Decision

1. The appeal was dismissed because the Appellant was not entitled to an Annexe related discount, as the three dwellings on the appeal site had been valued by the Listing Officer as separate hereditaments and listed accordingly.

## Introduction

2. This was a re-hearing, following an earlier panel sitting held on 16 July 2024 where the two members were unable to agree. Under the tribunal's business arrangements, where an even number of panel members are unable to agree, the appeal has to be heard afresh. In this case, I decided that it would be appropriate for me to hear the appeal, so that my decision would assist lay panels when dealing with similar appeals in the future.
3. The Appellant completed his purchase of Stibbington Hall on 18 March 2019. Within the grounds of Stibbington Hall were two other dwellings which were known as the Coach House and the Cottage. The Appellant therefore owned three chargeable dwellings and was responsible for paying council tax on each dwelling. In order to reduce his council tax liability, the Appellant made an application for an annexe related discount, in respect of both the Coach House and the Cottage but this was refused by the billing authority. As the appellant was aggrieved by the billing authority's rejection of his application, he appealed to the tribunal on 25 September 2024 in accordance with Section 16 of the Local Government Finance Act 1992. The discount was sought with effect from 18 March 2019.
4. During proceedings, I briefly lost my broadband connection. This was quickly remedied and the Appellant began his evidence again and the case continued.
5. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

## Relevant Law

6. A dwelling was defined in Section 3 of the Local Government Finance Act 1992 as follows:

### 3 Meaning of "dwelling"

(1) This section has effect for determining what is a dwelling for the purposes of this Part.

(2) Subject to the following provisions of this section, a dwelling is any property which—

(a) by virtue of the definition of hereditament in section 115(1) of the General Rate Act 1967, would have been a hereditament for the purposes of that Act if that Act remained in force; and

(b) is not for the time being shown or required to be shown in a local or a central non-domestic rating list in force at that time; and

(c) is not for the time being exempt from local non-domestic rating for the purposes of Part III of the Local Government Finance Act 1988 ("the 1988 Act");

and in applying paragraphs (b) and (c) above no account shall be taken of any rules as to Crown exemption.

(3) A hereditament which—

(a) is a composite hereditament for the purposes of Part III of the 1988 Act; and

(b) would still be such a hereditament if paragraphs (b) to (d) of section 66(1) of that Act (domestic property) were omitted,

is also, subject to subsection (6) below, a dwelling for the purposes of this Part.

(4) Subject to subsection (6) below, none of the following property, namely—

(a) a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property used wholly for the purposes of living accommodation; or

(b) a private garage which either has a floor area of not more than 25 square metres or is used wholly or mainly for the accommodation of a private motor vehicle; or

(c) private storage premises used wholly or mainly for the storage of articles of domestic use,

is a dwelling except in so far as it forms part of a larger property which is itself a dwelling by virtue of subsection (2) above.

(4A) Subject to subsection (6) below, domestic property falling within section 66(1A) of the 1988 Act is not a dwelling except in so far as it forms part of a larger property which is itself a dwelling by virtue of subsection (2) above.

(5) The Secretary of State may by order provide that in such cases as may be prescribed by or determined under the order—

(a) anything which would (apart from the order) be one dwelling shall be treated as two or more dwellings; and

(b) anything which would (apart from the order) be two or more dwellings shall be treated as one dwelling.

(6) The Secretary of State may by order amend any definition of “dwelling” which is for the time being effective for the purposes of this Part.

7. Regulation 3 of the Council Tax (Reduction for Annexes) (England) Regulations 2013 outlined the prescribed requirements for the entitlement to discount(s) as follows;

### **3 Prescribed conditions**

(1) The following conditions are prescribed for the purposes of these regulations

(2) The dwelling—

**(a) forms part of a single property which includes at least one other dwelling; and**

**(b) is being used by a resident of that other dwelling or, as the case may be, one of those other dwellings, as part of their sole or main residence; or**

**(c) is the sole or main residence of a relative of the person who is liable to pay council tax in respect of that other dwelling or, as the case may be, one of those other dwellings.**

(3) For the purposes of paragraph (2)—

(a) “single property” means a property which would apart from the Council Tax (Chargeable Dwellings) Order 1992 be one dwelling within the meaning of section 3 of the 1992 Act;

(b) a person (“P”) is to be regarded as the relative of another if P—

(i) is the spouse or civil partner of that person, or

(ii) is that person's parent, child, grandparent, grandchild, brother, sister, uncle or aunt, nephew or niece, great-grandparent, great-grandchild, great-uncle, great-aunt, great-nephew or great-niece, or

(iii) is that person's great-great-grandparent, great-great-grandchild, great-great-uncle, great-great-aunt, great-great-nephew or great-great-niece; and

(aa) a relationship by marriage or civil partnership shall be treated as a relationship by blood;

(bb) a relationship between two persons living together as if they were a married couple or civil partners shall be treated as a relationship by marriage or civil partnership; and

(cc) the stepchild of a person shall be treated as that person's child;

(dd) the child of the civil partner of a person ('A') shall be treated as A's child; and

(c) the person who is liable to pay council tax includes a person who would be so liable if the dwelling were not an exempt dwelling within the meaning of the Council Tax (Administration and Enforcement) Regulations 1992.

8. Article 3 of the Council Tax (Chargeable Dwellings) Order 1992 was as follows:

Subject to Article 3A, 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.

## Facts

9. Although I was not presented with an agreed statement of facts, having read the evidence bundle, the following facts have been admitted or proved:

- a) Prior to the Appellant's purchase of the Stibbington Hall Estate, both the Coach House and the Cottage were let out to tenants unfurnished. Both outbuildings were fully self-contained with all of the necessary facilities to cater for independent living. Both outbuildings were shown in the Valuation List as separate dwellings with band D entries with effect from 1 April 2010.
- b) As Stibbington Hall, the Coach House and the Cottage were in different rateable occupations, each dwelling was valued for council tax purposes as a separate hereditament in the Council Tax Valuation List. The respective tenant(s) would have been liable for the council tax on the Coach House and the Cottage under section 6(2) of the Local Government Finance Act 1992 whilst they were resident(s) and also for the duration of their tenancy, after they ceased to be resident(s), if their tenancy met the criteria of being a material interest within the meaning of section 6(6) of the Local Government Finance Act 1992.
- c) On 1 April 2019, the Appellant contacted the billing authority by email and informed it that both the Coach House and the Cottage were vacant. He stated that both properties were previously let out as unfurnished lettings but he was not minded to market them as such. Instead, he was thinking of marketing them as holiday lets and queried how this would affect his council tax liability and if non-domestic rates would become payable.
- d) On 18 November 2022, the Appellant contacted the billing authority, again by email, to enquire how the outbuildings, which were used for storage, could be merged into a single assessment with Stibbington Hall. He said that the Valuation Office had advised him to contact the billing authority.
- e) The billing authority's Council Tax department made the Appellant aware of his possible entitlement to a discount under the 2013 Regulations on 1 December 2022.
- f) Following an application made by the Appellant for a discount, an inspection was undertaken on behalf of the billing authority on or around 6 January 2023. The inspection report showed that both the Coach House and the Cottage were unoccupied and used for personal storage. The Appellant still had no plans to let out either and was considering using the smaller building, the Cottage, as an estate office.
- g) On 18 September 2023, the Appellant emailed the billing authority and itemised to what extent the Coach House and the Cottage were furnished, in order to persuade it to remove the premium charge and de-classify the buildings as long term empty dwellings. The premium charge for the Coach House was removed with effect from 31 January 2021 and from the Cottage with effect from 24 November 2020.

## Discussion

- 10. On behalf of the Appellant, Mr Hunt argued that the appeal site formed a single hereditament. Both the Coach House and the Cottage were in grounds of the main house, Stibbington Hall. In support of his argument, he referred to the Supreme Court's judgment in *Woolway (VO) and Mazars LLP* [2015] UKSC 53 and *FC Brown Steel Equipment and Hopkins (VO)* [2022] UKUT 51 (LC).
- 11. In order to qualify for discount under the Council Tax (Reduction for Annexes) (England) Regulations 2013, a tripartite test had to be met. Mr Hunt contended that in this case the tripartite test in regulation 3 was clearly met. This was because all three dwellings were separately banded for council tax. All three dwellings formed part of a single property and the Coach House and Cottage were being used by the Appellant's family as part of their sole or main residence.

12. In response, Mrs Warren stated that neither the Coach House nor the Cottage qualified for an annexe related discount because they had both been valued as separate hereditaments.
13. As the Valuation List contained details of all of the chargeable dwellings in the billing authority's area and did not differentiate between what was a hereditament as opposed to a separate self contained unit valued in accordance with Article 3 of the Council Tax (Chargeable Dwellings) Order 1992, Mr Hunt said he failed to understand the billing authority's approach because if it was correct, it would mean that no chargeable dwelling would ever qualify for an annexe discount.
14. Prior to the Appellant's purchase of the appeal site, it was not disputed that the previous owner had let out the Coach House and the Cottage to separate tenants. As Stibbington Hall, the Coach House and the Cottage were previously in separate rateable occupation, each dwelling was valued as a separate hereditament by the Listing Officer.
15. When the Appellant purchased the appeal site, both the Coach House and the Cottage were unoccupied as the former tenants had long since left. Mr Hunt referred to the Supreme Court's judgment in *Mazars* to seek to persuade me that the three dwellings should be treated as a single hereditament. Mr Hunt argued that the geographical test was clearly met and referred me to the comments made by Lord Sumption in paragraph 12 below:

12. I derive from these decisions three broad principles relevant to cases like this one where the question is whether distinct spaces under common occupation form a single hereditament. First, the primary test is, as I have said, geographical. It is based on visual or cartographic unity. Contiguous spaces will normally possess this characteristic, but unity is not simply a question of contiguity, as the second Bank of Scotland case illustrates. If adjoining houses in a terrace or vertically contiguous units in an office block do not intercommunicate and can be accessed only via other property (such as a public street or the common parts of the building) of which the common occupier is not in exclusive possession, this will be a strong indication that they are separate hereditaments. If direct communication were to be established, by piercing a door or a staircase, the occupier would usually be said to create a new and larger hereditament in place of the two which previously existed. Secondly, where in accordance with this principle two spaces are geographically distinct, a functional test may nevertheless enable them to be treated as a single hereditament, but only where the use of the one is necessary to the effectual enjoyment of the other. This last point may commonly be tested by asking whether the two sections could reasonably be let separately. Third, the question whether the use of one section is necessary to the effectual enjoyment of the other depends not on the business needs of the ratepayer but on the objectively ascertainable character of the subjects. The application of these principles cannot be a mere mechanical exercise. They will commonly call for a factual judgment on the part of the valuer and the exercise of a large measure of professional common sense. But in my opinion, they correctly summarise the relevant law. They are also rationally founded on the nature of a tax on individual properties. If the functional test were to be applied in any other than the limited category of cases envisaged in the second and third principles, a subject (or in English terms a hereditament) would fall to be identified not by reference to the physical characteristics of the property, but by reference to the business needs of a particular occupier and the use which, for his own purposes, he chose to make of it.

16. I accepted that, now that the whole of the appeal site was in a single rateable occupation and formed a single hereditament, the three dwellings could *potentially* be treated as a single hereditament. However, the appeal before me related to a dispute about the calculation of council tax liability, in this case an application for discount(s). The tribunal's jurisdiction was thus restricted to whether the prescribed conditions to qualify for discount(s) had been met. The tribunal's jurisdiction did not extend to encompass whether it was now appropriate to re-value the appeal site as a single hereditament and having regard to Article 3 of the Council Tax (Chargeable Dwellings) Order 1992. The responsibility for compilation and the maintenance of the Council Tax Valuation List lay with the Listing Officer, who was not a party to these proceedings. Mrs Warren informed me that her authority had previously advised the Appellant to contact the Listing Officer, if he wanted the accuracy of the list entries to be reviewed.
17. As a corollary, the insurmountable hurdle which the Appellant was unable to overcome, despite Mr Hunt's best endeavours, was that neither the Coach House nor the Cottage when they were valued for council tax purposes by the Listing Officer were treated as forming part of a single property. The 1992 Order was thus never engaged. At the time, they were both tenanted and therefore correctly valued as single properties or hereditaments, in their own right. Therefore, the prescribed conditions in Regulation 3 (2) of the 2013 Regulations were not met. For the whole site to be treated as a single property, it had to have been valued as a single hereditament and in this case, it had been valued as three.
18. I accepted Mr Hunt's point that when looking at the entries shown in the Valuation List, it was extremely difficult to identify, without any clear marked differential to inform the person inspecting the list, which chargeable dwellings had been valued as hereditaments and which were valued as Article 3 dwellings. The latter being treated as separate self contained units but forming part of a larger property.
19. In view of the above, neither the Coach House nor the Cottage met the prescribed requirements in Regulation 3 (2) (a) as neither dwelling formed part of a single property. They were valued, albeit historically, as separate hereditaments. Whether that was still correct now was somewhat academic and not a matter for me to decide. The simple fact was that all three dwellings had been valued as separate hereditaments and the valuation list had not been altered, since the Appellant had completed his purchase.
20. Since the appeal fell at the first hurdle, it was not necessary for me to fully consider whether or not the Coach House and/or the Cottage were being used by the Appellant's family for residential purposes. The Appellant told me that his daughters played table tennis and made use of the spare rooms for private study. It was not clear, from his evidence, when they started using either dwelling. However, the appeal sought a discount with effect from the date the Appellant purchased the appeal site on 18 March 2019. The information provided within the evidence bundle clearly indicated that both the Coach House and the Cottage were superfluous to his family's requirements at the time of purchase, as evidenced by the fact that he was considering marketing them as holiday lets. As a corollary, the dwellings would not have qualified for discount, in any event, with effect from 18 March 2019 as neither was being used at that time.

## Disposal

21. In view of the foregoing, the appeal was dismissed.



**PRESIDENT**

**Date issued to parties:** 10 October 2024

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## Right of further 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.

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