



VALUATION TRIBUNAL FOR ENGLAND

Council tax valuation appeal; holiday lodge; deletion of the entry in the list proposed; occupied as a sole or main residence; appeal dismissed.

APPEAL NUMBER: VT00022242

RE: 3 Capel Gardens, Capel Road, Hamstreet TN26 2EJ
(the "subject property")

BETWEEN:	CW & AK	Appellants
	and	
	Lucy Dyer MRICS (Listing Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 5 November 2024

BEFORE: Mr Amran Hussain, Presiding Senior Member
Mr T Mahmood, Senior Member

CLERK: Mrs H Beresford

APPEARANCES: The Appellants
Mr I Smith

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.
2. The panel confirmed that the entry of the appeal property should remain in the council tax valuation list.

Introduction

3. The appeal is brought in respect of a proposal which was served on the Listing Officer on 27 August 2023. The appellants proposed the deletion of 3 Capel Gardens, Capel Road,

Hamstreet TN26 2EJ, from the valuation list, on the grounds that it was not their sole or main residence.

4. The Listing Officer issued a decision notice on 29 November 2023, which stated that after a review of the information held, there would be no change to the entry in the list. In response, the appellants made an appeal to the Valuation Tribunal, which was received on 21 March 2024.
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 his evidence first to assist the unrepresented appellants.
6. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

7. The subject property is a mobile home located in a rural area on a small park known as Capel Gardens Holiday Park in Ruckinge to the south of Ashford in Kent. The subject property has two bedrooms, two bathrooms, a reception room and a kitchen and is a currently valued as band A with effect from 18th September 2022. Band A is the lowest council tax band, for properties valued up to but not exceeding £40,000 as at 1 April 1991.
8. The appellants argued that Capel Gardens Holiday Park only has a licence as a holiday park and not for residential purposes. It is not permissible to reside in the caravan and to do so would mean that they could be evicted, hence, they both have their sole or main residence elsewhere and visit the caravan for holidays and at weekends.
9. The Listing Officer contended that, as the appellants had failed to provide evidence that they were paying council tax elsewhere, the subject property should be regarded as their sole or main residence and therefore it becomes a dwelling for council tax purposes. Furthermore it was argued that despite the park having a holiday licence there are twenty-seven other caravans on the same park which are currently in the valuation list and banded for council tax purposes.

Relevant Law

10. Domestic property is defined in section 66 of the Local Government Finance Act 1988 and The Rating (Caravan and Boats) Act 1996. Essentially, a caravan pitch is domestic property when it is occupied by a holiday lodge that is a sole or main residence of an individual, and therefore treated as a dwelling.

Section 66 (1) and (3) of the Local Government Finance Act 1988, states:

“66 Domestic property

- (1) Subject to subsections (2), (2B), (2BB) and (2E) below, property is domestic if—

- (a) it is used wholly for the purposes of living accommodation

(3) Subsection (1) above does not apply in the case of a pitch occupied by a caravan, but if in such a case the caravan is the sole or main residence of an individual, the pitch and the caravan, together with any garden, yard, outhouse or other appurtenance belonging to or enjoyed with them, are domestic property.”>

11. A dwelling is defined in section 3(2) of the Local Government Finance Act 1992 as follows:

- 3(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;
 - (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;
 - (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.

Discussion

12. The panel noted that in making application for the subject property to be deleted from the valuation list the appellants had asserted that they did not reside in the subject property, but that CW resided at 5 Hestia Way TN23 3RH, 352 Lordswood Lane, ME5 8JT and 21 Norwood Street, TN23 1QU and AK resided at 21 Norwood Street, TN23 1QU. At the hearing CW confirmed that she actually had her sole or main residence at 5 Hestia Way TN23 3RH.
13. At the hearing the appellants argued that the reason they did not pay council tax elsewhere was because the properties where they each had their sole or main residence were the homes of their respective parents who were named on the council tax bills. On questioning they stated that they stayed at the caravan for holidays and at weekends only.
14. The panel noted that the appellants had stated that they did not reside at the caravan, however, whilst they had provided evidence to show that the site was for holiday lets, they had not provided any documentary evidence in support of their arguments that they had their sole or main residences at the addresses mentioned above.
15. In appeals of this nature the legal burden of proof rests entirely on the appellants. They have to show that the Listing Officer’s decision is incorrect. In the appeal before it, the panel found that the lack of supporting documentation was significant and ultimately determinative; the appellants had not produced convincing or credible evidence. Unfortunately, the panel was unable to accept the appellants’ argument that they did not live in the subject property, as they had failed to present documentary evidence, which should have been readily available in the form of bank statements, diving licenses etc., to demonstrate that they were living elsewhere.
16. The panel considered that the Listing Officer had correctly banded the appeal property, as it was satisfied it was the sole or main residence of the appellants as required by section 66(3) of the Local Government Finance Act 1988.

Disposal

17. In consideration of the legislation, together with the facts of the appeal, the panel concluded that the appeal property is correctly shown in the valuation list, and therefore the appeal is dismissed.

Date issued to parties: 26 November 2024

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.
