



**IN THE VALUATION TRIBUNAL FOR ENGLAND
IN THE MATTER OF A COUNCIL TAX VALUATION APPEAL**

Case No: VT00025789

Sitting remotely using
Microsoft Teams

Date: 27 May 2025

SCHEDULE 11 TO THE LOCAL GOVERNMENT FINANCE ACT 1988

COUNCIL TAX — Local Government Finance Act 1992 — the Council Tax (Situation and Valuation of Dwellings) Regulations 1992; seeking deletion; appeal allowed-in-part.

Before:

**MS C CAIQUO
MR W HUSSAIN**

Between:

VF

Appellant

- and -

**KAREN GILES
(LISTING OFFICER)**

Respondent

Regarding:

**PEAR TREE COTTAGE, GARBOLDISHAM ROAD, HARLING, NORFOLK NR16 2PT
(the “subject property”)**

The Appellant, the Appellant in person
Mr J Ong for the **Respondent**

Hearing date: 13 May 2025

DECISION AND STATEMENT OF REASONS

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Decision

1. The appeal is allowed-in-part.
2. The Tribunal finds that the appeal property was not a hereditament and must be deleted from the valuation list with effect from 7 December 2022.

Introduction

3. The appeal process began when the appellant served a proposal on the listing officer on 27 March 2024, requesting that the entry in the valuation list for the appeal property be deleted with effect from 13 April 2021.
4. The listing officer decided that the proposal was not well founded and issued a decision notice to that effect on 12 July 2024.
5. The appellant made an appeal to this Tribunal on 12 September 2024 against the decision of 12 July 2024.
6. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

7. The appeal property was a three bedroom, semi-detached cottage with a thatched roof. It had entered the valuation list on 1 April 1993 at band D.
8. The appellant was the owner of the property and was seeking a deletion of the band entry on the grounds that the property was in a state of severe disrepair. Planning permission had been granted to demolish the property in December 2023. However, there were still conditions in place preventing the start of the demolition works until ecological conditions had been discharged.
9. As a result of additional photographs provided by the appellant, the listing officer had agreed to delete the property with effect from 13 September 2024. This being the date that the evidence was received to show that there had been a deterioration in the state of the property. The appellant was still aggrieved as she was seeking a deletion from an earlier date.
10. The listing officer had provided the joint evidence bundle which contained contributions from both parties to the appeal. It included the originating proposal, listing officer's decision, the appeal form, external and internal photographs of the appeal property. The evidence bundle also included legislation and the following judgments:
 - *Wilson v Coll (Listing Officer)* [2011] EWHC 2824 (Admin),
 - *Newbigin (Valuation Officer) v SJ & J Monk* [2017] UKSC 14
 - *Jackson (Valuation Officer) v Canary Wharf Ltd* [2019] UKUT 136 (LC)
 - *Bunyan (Listing Officer) v Patel* [2022] EWHC 1143 (Admin)
11. During the hearing, it became apparent that the appellant was referring to evidence which had not been included in the original evidence bundle. The appellant had sent an email to the

original Listing Officer's caseworker after the two-week evidence pack had been sent to the Tribunal. The new evidence had not been sent to the Tribunal and the panel and Mr Ong had not had sight of it. The appellant forwarded this evidence to the Tribunal, and it was made available to Mr Ong and the panel.

12. The hearing was adjourned for a few minutes to allow Mr Ong and the panel to review the evidence, which included some internal photographs which had been taken in May 2022 and an extract from the Valuation Office Agency Practice Notes. Having had the opportunity to review the evidence, Mr Ong stated that he had no objection to its inclusion, he considered that the photographs were similar to those contained within the structural report.
13. The panel was informed that Mr Ong was representing the listing officer, however he had not compiled the evidence bundle.
14. To assist the appellant, and with the agreement of the parties, the Tribunal Model Procedure was varied to allow the lay appellant to present her case second.

Relevant Law

15. The appeal property could only be deleted from the council tax valuation list if it ceased to be a 'dwelling'. Section 3 of the Local Government Finance Act 1992 defines the meaning of 'dwelling' as follows:

"...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..."

16. The definition of dwelling essentially referred back to the definition of a 'hereditament' under section 115(1) of the General Rate Act 1967, which stated the following:

"property which is or may be liable to a rate, being a unit of such property which is, or would fall to be shown as a separate item in the Valuation List".

17. Provided a hereditament existed, the statutory assumptions as set out in the Council Tax (Situation and Valuation of Dwellings) Regulations 1992 became engaged. In particular, regulation 6 (2)(c) being the assumption "that the dwelling was in a state of reasonable repair".

Discussion

18. The listing officer had accepted that the property was no longer a dwelling with effect from 13 September 2024. In the event that the appellant was correct that the property was no longer

a dwelling at an earlier time, the relevant and effective date would be the date when the dwelling ceased to exist.

19. In their proposal, the appellant had proposed 13 April 2021 as the effective date for the dwelling's deletion. However, no factual evidence was provided to show that the dwelling had ceased to exist in 2021. Furthermore, the appellant did not become the property's owner until 13 April 2022. At the hearing, the appellant stated that she was seeking deletion from 20 May 2022, the date that she had taken photographs of the property. Alternatively, she argued that if the property could not be deleted from 20 May 2022, it should be deleted from 7 December 2022, as this was the date of the survey she had submitted.
20. Mr Ong contended that the appeal property should only be removed from the valuation list if it was considered to be derelict. He stated that the listing officer had received no evidence to suggest that the appeal property was derelict prior to 13 September 2024. He argued that the images provided by the appellant and the survey report showed that the property was in a poor state of repair, however he argued that considering the age of the property, the amount of work required to repair it to the point of being habitable was not unreasonable to undertake. On that basis he maintained that the property was capable of being occupied for use as a dwelling, albeit once the repair issues were addressed.
21. The appellant argued that the appeal property was uninhabitable when they purchased it in April 2022. It had not been properly maintained for a number of years. The perished thatch roof had allowed water into the timber frame causing the building to be unstable and unsafe. The previous owner had only lived on the ground floor of the property, and had been taken into care some time before the property had been sold. The appellant had originally hoped to renovate the dwelling but had found that the only option was to demolish the property and rebuild a new dwelling.
22. The appellant had provided a copy of an email from the estate agent dated 19 February 2022, prior to the completion of the sale. This email stated that a survey had been undertaken by the seller's representatives. The email did not specify who had undertaken the inspection or the date that it took place. The email contained the following comments:

"The roof thatch is in a very poor state of repair with the thatch missing in a number of areas especially on the north eastern side of the building facing the road. As a result, rainwater has caused the decay of a significant amount of the roof structure and a number of rafters have failed causing the collapse of some sections of the ceiling below. There is also decay of some of the key roof structure elements such as the eaves plates (at the base of the rafters) and tie beams (which connect the walls across the building), However at the present time, there has been no failure of the principal roof components.

Where the roof and ceilings have failed, water damage has caused decay of the first floor structure below. The first floor structure remains intact, however the strength of some areas of the first floor is in doubt and extreme caution should be exercised when walking around on the first floor especially on the north eastern side adjacent to the neighbouring property.

The building is in a very poor state of repair owing to the neglect of recent years and it is probable that the roof structure is unsalvageable. However at the present time we confirm that we do NOT consider the building at imminent risk of collapse or further immediate damage which would put the neighbouring semi-detached property at undue risk."

23. In support of her application for the property to be renovated/demolished, the appellant had engaged the services of BHA Consulting to undertake a structural inspection of the property. The report was dated 7 December 2022, and the structural inspection had been undertaken by Andrew Westby BEng (Hons) CEng MICE MStrucE and his findings were as follows;

The property is in a very poor state of repair and exhibits a significant level of deterioration throughout. The timber framed elements forming the main structure appear to have been encapsulated externally by sand and cement render, thus trapping moisture in the timber. A number of visible structural timbers exhibit evidence of significant decay and deterioration.

The first-floor structures appear over-stressed with significant deflection noted in the principal elements. The leakage of water through the roof structure over the front left bedroom has led to significant decay in the associated floor structure leaving it in a dangerous condition. The first-floor structure also provides woefully inadequate headroom to the ground floor accommodation, although this is possibly as a result of the later introduction of concrete floors at too high a level.

The roof structure is in a very poor condition throughout, with widespread vegetation growth affecting the thatch in both front and rear elevations. This has clearly led to water leakage, as referenced above, and we must assume that the structural roof timbers are in a poor condition due to long term exposure to moisture. There is also evidence of significant roof spread to the wall junctions with separation below wall plate level.

The chimney stack where it projects above the roof line is in a poor condition and essentially requires reconstruction.

The beam over the kitchen supporting the first-floor level party wall is in a poor and decayed condition where exposed, which will have compromised its structural integrity.

Externally the walls appear to be clad with sand and cement render, as alluded to previously, which is inconsistent with the underlying timber frame. The render is in a poor condition generally and significant cracking is visible to the left side of the front elevation, indicative of foundation related movement. In the respect, we suspect the foundations will be insubstantial and probably incapable of sustaining additional loads arising from potential structural interventions, required to renovate the property.

Recommendations

Given the generally poor condition of the property, we would concur that the structural elements are likely to be excessively decayed, largely throughout, and thus incapable in their current condition of sustaining continued habitable use. Moreover, any changes to the structural regime resulting from alterations required to make the building conducive to modern living are unlikely to be achievable without significant structural intervention.

Significant remedial attention is also required to maintain the integrity of the flying freehold of the neighbouring property, which is significantly compromised and leaves the building owners with an onerous ongoing liability.

The roof requires re-thatching and, once the thatch is removed, we would strongly suggest the entire roof structure will be seen to require renewal due to timber decay and deterioration. The poor condition of the roof has also led to an element of roof spread which has caused lateral separation at the front and rear between the principal elevations and

adjoining internal partitions.

The combined effects of the inappropriate use of modern render materials and deterioration of the roof structure has led to widespread moisture ingress into the principal timber framing elements and likely widespread decay and deterioration, threatening the structural integrity of the building.

Given the above points outlining the poor condition of the property as a whole, we propose that the most appropriate and cost effective course of action would be to demolish the existing cottage and provide a replacement dwelling designed and constructed sympathetic to its surrounding and complementary to the neighbouring property.

24. No site inspection or survey had been undertaken on behalf of the listing officer. Even though the respondent had had sight of the independent reports, Mr Ong maintained that the appeal property was a hereditament prior to 13 September 2024, which was capable of repair. He argued that there was no economic test within council tax law and whilst the repairs would be costly, at the time of the survey the property was not in danger of structural collapse.
25. The appellant referred to Practice Note 4 of the Valuation Office Agency Council Tax Manual. She stated that it provided a list of negative indicators which demonstrated a truly derelict property. She argued that many of these negative indicators were present at the appeal dwelling. She further argued that the structural report, in conjunction with the additional photographs that she had provided, which were taken in May 2022 demonstrated that the property was incapable of occupation and the works required were not 'normal' repair works. It required significant structural repair and a programme of works.
26. In paragraphs 39 and 40 of the High Court judgment, *Willson v Coll (LO)*, where Mr Justice Singh dealt with the question of whether a hereditament exists or continues to exist:
- “39. In answering that question correctly the respondent submitted to me that what in fact should be asked is a question which is posed for Listing Officers to consider in a practice note to the Council Tax Manual, practice note number 4. The question is as follows:
- "Having regard to the character of the property and a reasonable amount of repair works being undertaken could the premises be occupied as a dwelling?"
40. I accept the respondent's submission as a general matter in that respect. I accept that as a general matter of law the crucial distinction for the purposes of deciding whether there is, or continues to be, a hereditament should focus upon whether a property is capable of being rendered suitable for occupation (in the present context occupation as a dwelling) by undertaking a reasonable amount of repair works. The distinction, which is correctly drawn by the respondent, in my view, is between a truly derelict property, which is incapable of being repaired to make it suitable for its intended purpose, and repair which would render it capable again of being occupied for the purposes for which it is intended.”
27. Having regard to the above, the test was whether properties could be rendered suitable for occupation with a reasonable amount of repair works. Although what amounted to a reasonable amount was dependent on the facts in each specific case. In this case, the panel had to determine whether the property could be rendered capable of use following a reasonable amount of work.

28. In cases of this nature, when an appellant produces independent reports which indicate that the property ceased to be a hereditament, the onus was on the listing officer to provide their own expert evidence in order to rebut the appellant's evidence and explain how the property can be rendered suitable for occupation, despite what the independent reports suggest. Instead of which what often happens, as in this case, is that the independent reports are dismissed by the listing officer as not being relevant without any expert analysis to explain why they should be disregarded by the panel.
29. In view of the foregoing, the panel therefore found the evidence from the independent reports to be compelling. No counterfactual evidence or expert reports were produced by the respondent to either rebut or discredit them. On the date that the independent survey was conducted, it was clear to the panel that the property was not a hereditament as it was incapable of use. Major or extensive building work was needed to the property before it was capable of use again. In the event, those works did not begin. It therefore ceased to exist as a hereditament. Therefore, as there was no hereditament to begin with, there was nothing to value and the statutory repair assumption was not engaged.

Determination

30. In view of the above findings and conclusions, the Tribunal is satisfied that the appeal property had ceased to be a hereditament on 7 December 2022. The building needed more than a reasonable amount of repair works as demonstrated by the reports from building professionals. Consequently, it should be removed from the valuation list from the 7 December 2022.
31. Under the provisions of regulation 38(2) of the Valuation Tribunal for England Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the listing officer to delete the band entry in the valuation list in respect of Pear Tree Cottage, Garboldisham Road, Harling, NR16 2PT.
32. Under regulation 38(9), the listing officer must comply with this order within two weeks of the date of its making.

Right of further appeal

33. Any party who is aggrieved at the Tribunal's decision has a statutory right of further appeal to the High Court on a point of law pursuant to Regulation 43 of the Tribunal Procedure Regulations. A party does not require permission to appeal from the Tribunal. Any appeal must be made directly to the High Court within **four weeks** of the date this decision and statement of reasons is issued.
34. Further information regarding this statutory right of further appeal, and the parties' other rights, is contained in the guidance booklet "*A guide to tribunal decisions*" available on the Tribunal's website at www.valuationtribunal.gov.uk/guidance-booklets/.

Ms C Caiquo, Senior Member (Presiding)

Mr W Hussain, Senior Member

27 May 2025

Mrs K Edhouse-Thomas

Clerk to the Tribunal

Date issued to the parties: 27 May 2025