

**Appellant:** Mr Llywarch Davies

**Appeal Address:** Self Catering Holiday Unit and Premises, 7 Ty Gwyn,  
Trawsfynydd, Blaenau Ffestiniog, LL41 4RW

**The Matter Appealed against:** 2017 Non-Domestic Rating List - Self Catering  
Holiday Unit

**Date of Hearing:** 6 July 2023

**Appearances:** Mr Davies (Appellant) and Mrs Rebecca Morris representing the  
Valuation Officer

**Date of Decision:** 3 August 2023

**Decision of Tribunal:** Appeal Dismissed

**Members of the Tribunal:** Mrs L M Thomas (Chairperson), Mr R Henley and Mr J  
Pickering

**Tribunal Clerk:** Mr R Williams

**Introduction:**

1. The subject appeal arose from a proposal submitted by the appellant on the 18 October 2022 challenging the Valuation Officer's decision to remove the entry of the Self-Catering Holiday Unit and Premises at 7 Ty Gwyn, Trawsfynydd, Blaenau Ffestiniog, LL41 4RW, from the 2017 Non-Domestic Rating List for the period 1 April 2020 - 31 March 2021.
2. The following is a summary of the case and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the Tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

**Legislation & Case Law**

- The Local Government Finance Act 1988
- The Rating Lists (Valuation Date) (Wales) Order 2014, Statutory Instrument No. 2014/1370 (W.139)
- Vines Limited v de Mauny (VO) 2010
- Bridge Street Limited & Room Space Limited v David Jackson (VO) and Andrew Ricketts (VO) 2017

**Valuation Officer submission**

3. The Valuation Officer informed the Tribunal that relevant legislation dictated that in order for the appeal property to be valued as a self-catering unit and be entered in the Non-Domestic Rating List it must satisfy the following criteria:

- be available to let for short periods for at least 140 days or more over the current and previous tax years;
  - be actually let for at least 70 days in the past 12 months; and
  - be let on a commercial and on a short-term basis.
4. The Valuation Officer explained that the appellant purchased the appeal property in 2013 and then let it as a residential unit. In 2016, it was made available to let as a self-catering holiday unit and on 28 November 2016 the appeal property was entered in the 2010 Non-Domestic Rating List at £1,250 Rateable Value.
  5. Following the introduction of the 2017 Non-Domestic Rating List on 1 April 2017, the appeal property was provided with a Compiled List entry of £1,900 Rateable Value.
  6. As the appeal property failed to meet the eligibility tests for the period 1 April 2020 – 31 March 2021, the appeal property was removed from the 2017 Rating List and entered in the Council Tax Valuation List. On the 1 April 2021, the appeal property was returned to the 2017 Rating List at £1,900 Rateable Value.
  7. The decision to remove the appeal property from the 2017 Rating List for the period 1 April 2020 – 31 March 2021 was based on information provided by the appellant in a form of return referenced 13004291 received by the Valuation Officer on 25 June 2021. The return detailed that the appeal property was let for the following total of nights:
    - Year ending 31 March 2019 – 200 nights
    - Year ending 31 March 2020 – nil nights (due to Coronavirus)
    - Year ending 31 March 2021 – 28 nights to date.
  8. The Valuation Officer explained that during the Coronavirus pandemic, National Lockdowns were enforced and consequently lettings were restricted; however, for the period 1 April 2020 – 31 March 2021 the appeal property could have been available to let for 150 days. The lockdown periods were:
    - 23 March 2020 – 11 July 2020
    - 23 October – 9 November 2020
    - 20 December 2020 - 27 March 2021
  9. For the period 1 April 2020 – 31 March 2021, the appellant confirmed the following bookings in an email dated 28 February 2023:
 

|                 |                         |           |                 |
|-----------------|-------------------------|-----------|-----------------|
| • Voith Group   | 13/07/2020 – 23/10/2020 | 99 nights | £700 per week   |
| • Mr Muhammed   | 23/12/2020 – 28/12/2020 | 5 nights  | £700 for 5 days |
| • Mr Hutchinson | 27/03/2021 – 03/04/2021 | 7 Nights  | £700 for 7 days |
  10. Regarding the Voith Group booking, the Valuation Officer did not consider that the letting of 99 nights satisfied the short period requirement. The 14-week

period of occupation was consecutive and therefore was not considered a short term let.

11. In absence of a legal definition to clarify what was considered a short period, the Valuation Officer referred to the Valuation Tribunal for England's decision in respect of Bridge Street Limited & Room Space Limited v David Jackson (VO) and Andrew Ricketts (VO) 2017, where the President of the Valuation Tribunal for England determined that a short period was for 28 days or less.
12. The Valuation Officer continued to explain that Mr Mohammed's booking was during a period of National Lockdown where self-contained holiday lets were restricted from trading by Welsh Government and therefore was not considered.
13. Mr Hutchinson's booking was made at the end of the final period of National Lockdown and 4 nights of letting therefore can be considered and counted towards the eligibility test having regard to the previous 12 months from 1 April 2021.
14. In conclusion, the Valuation Officer confirmed that the appeal property had failed to meet all eligibility tests in accordance with Section 66 (2BB) of the Local Government Finance Act 1988 and consequently should not be entered in the 2017 Non-Domestic Rating List for the period 1 April 2020 – 31 March 2021.
15. Responding to questions from the appellant, the Valuation Officer reiterated her opinion that the booking of the Voith Group from 13 July – 23 October 2020 was for a consecutive period of 14-weeks and not for short periods and that the invoices were merely an arrangement for payment to be made every two weeks.

### **Appellant's submission**

16. The appellant informed the Tribunal that when he purchased the appeal property it was entered in the Council Tax Valuation List. In 2016, it was then entered in the Non-Domestic Rating List as a self-catering holiday let and has remained a holiday let ever since.
17. The appellant explained that the appeal property was advertised as a self-catering holiday let at local shops and power stations located at Trawsfynydd, Maentwrog and Tanygrisiau and more recently on the Airbnb website, which consequently resulted in many contractors from different companies staying at the appeal property.
18. The appellant disputed the Valuation Officer's interpretation of a short period let with regard to the Voith Group booking. He stated that the booking was agreed with the Voith Group that the appeal property would be let out on a 2-weekly basis and that all bookings were made on separate occasions with different individuals.

19. In support of his contention the appellant explained that a changeover occurred on a weekly basis and consequently a cleaner, whom they employed, would clean the appeal property by changing bedding, replenish milk, tea & coffee, salt & pepper, washing up liquid, firewood & firelighters, toilet roll, shower gel and welcome starter packs similar to that of a hotel.
20. The appellant believed that he had met the relevant criteria in that for the period concerned, the appeal property was let in total for 111 days, which was over the required 70 days and available to let for 140 days.
21. The appellant made a comparison to that of the ex- Manchester United football manager Jose Mourinho who stayed at a hotel in Manchester for a consecutive period of 9 months. He suggested that Mr Mourinho's stay in the hotel room was for a period longer than 28 days and therefore questioned why the Voith Group booking at the appeal property could not be considered the same.
22. Responding to the scenario provided by the appellant regarding Jose Mourinho, the Valuation Officer explained that hotels by nature were used as short stay accommodation and therefore were different to a self-catering holiday unit and would be valued in a different way.
23. The appellant responded as follows to questions from the Valuation Officer
- No bookings were taken from the Voith Group prior to National lockdowns.
  - The Voith Group bookings were taken on a 2-week basis over the telephone from individuals - the engineer, the site agent, the project manager or the commercial manager.
  - Invoices would be e-mailed to personnel or the individuals concerned within days of the booking and the Voith Group would pay by bank transfer.
  - Mr Hutchinson's booking was based on trust and he always paid cash with no deposit paid. He was a friend to the family who had stayed at the appeal property on previous occasions.
  - Mr Mohammed's Christmas booking during national lockdown was made by telephone. The appellant allowed the booking during national lockdown as he believed restrictions had relaxed. No deposit was paid as Mr Mohammed had stayed previously and the invoice was a record of what was agreed and what was received.
  - Form of Return dated 22 June 2021, the appellant verified that he had completed and signed the form to the best of his knowledge. He confirmed that tariffs to stay at the appeal property under normal circumstances were £480 per week at high season and £360 at low.
  - During the lockdowns, the price to stay increased to £700 per week and the increased costs in tariff were transferred directly to the cleaner to provide protection in meeting the relevant health and safety standards.
  - The appellant conceded it was an error on his behalf not to include the Voith Group letting of 14 weeks at £700 totalling £9,800 in the Form of Return for the financial year commencing 1 April 2020. He commented that the Form of Return was not easy to complete.

## Reasons for Decision

24. Having regard to relevant legislation, referenced case law and the evidence provided, the Tribunal decided as follows:
25. The Tribunal was mindful that Non-Domestic property must be valued in line with the statutory definition of Rateable Value, as contained in paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999, and in accordance with The Rating Lists (Valuation Date)(Wales) Order 2014, Statutory Instrument No: 2014/1370 (W139), which determined that a hereditament must be valued by having regard to rental values achieved at the Antecedent Valuation Date, 1 April 2015, whilst looking at the physical circumstances of the property at the Material Day, 1 April 2017.
26. In respect of the subject appeal, the Tribunal was aware that the onus lay with the appellant to prove its case and to show that the appeal hereditament's assessment was incorrect, as directed by the general principle from the High Court case in respect of Vines Limited v de Mauny (Valuation Officer) (2010).
27. The sole issue to be determined was whether the Valuation Officer was correct in its determination to remove the appeal property from the 2017 Non-Domestic Rating List and enter in the Council Tax Valuation List for the period 1 April 2020 – 31 March 2021. The valuation of the appeal property was not in dispute.
28. The dispute between the parties lay in the interpretation of legislation contained within Section 66 (2BB) of the Local Government Finance Act 1988, which sets out the circumstances in which a building or a self-contained part of a building, which was commercially let for short periods as self-catering accommodation, was prevented from being considered as domestic property.
29. To satisfy the eligibility tests in order to be entered in the Non-Domestic Rating List, the following conditions/criteria must be met:
  - The commercial condition – the property must be let on a commercial basis.
  - The availability criteria – the property must have been available for commercial letting in the 12 months prior to assessment for short periods totalling 140 days or more. In addition, the ratepayer must intend for the property to be available for letting commercially for short periods totalling 140 days or more in the following 12-month period.
  - The letting criteria – in the 12-month period prior to assessment, the property is let commercially for at least 70 days.
30. The appellant contended that the bookings amid national lockdowns with the Voith Group between the 13 July 2020 – 23 October 2020 were agreed with individuals from that company on a 2-weekly basis, who were then individually invoiced and therefore he believed constituted short period lets. Whereas due to inconsistencies provided with information by the appellant, the Valuation

Officer argued that the overall booking by the Voith Group was for a consecutive period of 14-weeks and therefore could not be considered as a short period let.

31. The definition of 'short period' was not defined in legislation. However, the Valuation Tribunal for England decision in respect Bridge Street Limited & Room Space Limited v David Jackson (VO) and Andrew Ricketts (VO) 2017, provided clarification and certainty as to what constitutes 'short periods' in relation to the legislation.
32. That case concerned whether the hereditaments in question were subject to be entered in either the Non-Domestic Rating List or Council Tax Valuation List. The hereditaments had been included in the Non-Domestic Rating List as serviced apartments, but the appellants contended that 'short periods' referred to in Section 66 (2BB) of the Local Government Finance Act 1988 should constitute 28 days or less and not one day less than six months as proposed by the Valuation Officer and therefore be entered in the Council Tax Valuation List. The President of the Valuation Tribunal for England determined that short periods for the purpose of the said legislation was 28 days or less.
33. Having considered the information provided by the parties, the Tribunal opined that the Voith Group booking failed to meet the eligibility test of 70 days as it was an overall booking for a period of 14 weeks, which was beyond a short period of 28 days or less.
34. The Tribunal was also of the opinion that there were far too many inconsistencies in the information provided in the Form of Return dated 22 June 2021 along with the additional invoices/receipts provided by the appellant.
35. On weight of evidence presented, the Tribunal was persuaded that the Valuation Officer was correct in its decision to remove the appeal property from the 2017 Non-Domestic Rating List for the period 1 April 2020 – 31 March 2021 and accordingly dismiss the appeal.