

Appeal Numbers: 684534365338/285NV17 (Appeal No.1)
684536840272/537NV17 (Appeal No.2)

Appellant: Puffin Produce Limited / Puffin Farms Limited

Appeal Property: Puffin Produce, Rosemary Lane, Units 12 – 28 Withybush Road,
Haverfordwest, SA62 4BN

Matter Appealed Against: 2017 Non-Domestic Rating List

Hearing Date: 6 February 2025

Appearances: Mr Luke Wilcox (counsel/advocate for appellant)
Mr Jonathan Langmead (witness of fact for appellant)
Mr Mathew Donmall (counsel/advocate for respondent)
Miss Tina-Suzanne Davies (witness of fact for respondent)

Decision and its date: Appeals allowed – 19 March 2025

Tribunal Members: Mr K Curry (Chairperson), Mr R G Harris and Mr R Singh

Tribunal Clerks: Mr R Williams assisted by Mr M Keylock

Introduction - Issues in Dispute

1. The appeals arose from proposals made by Montagu Evans LLP on behalf of Puffin Produce Limited (Appeal No.1) and Puffin Farms Limited (Appeal No.2). The occupying company's name changed from Puffin Produce Limited to Puffin Farms Limited following a restructure.
2. Appeal No.1 was received by the Valuation Office Agency on 28 May 2020 and Appeal No.2 on 30 March 2023. Both appeals sought deletion of the appeal property's entry in the 2017 Rating List - Appeal No.1 from 1 September 2018 and Appeal No.2 from 28 March 2022.
3. Agreed facts: The appeal property comprised three warehouses set out across seventeen self-contained temperature-controlled bays, built of portal frame with steel cladding, constructed between 2014 and 2018. The appeal property's Gross Internal Area was 8,443.90m² and its site extended to 10.539 acres (4.265 hectares).
4. Puffin Farms Limited owned the land adjoining the appeal property which extended to 31.858 acres (12.892 hectares).
5. Puffin Farms Limited purchased the freehold property known as Clarborough Farm, Narberth Road, Haverfordwest, on 1 April 2022 with land extending to 178.40 acres (72.196 hectares).
6. Item in dispute: Whether the appeal property should be deleted from the 2017 Non-Domestic Rating List on the grounds it was exempt under the provisions

of Paragraph 1 & 3(a) of Schedule 5 to the Local Government Finance Act 1988:

‘1 A hereditament is exempt to the extent that it consists of any of the following—

- (a) agricultural land;*
- (b) agricultural buildings.*

3 A building is an agricultural building if it is not a dwelling and—

(a) it is occupied together with agricultural land and is used solely in connection with agricultural operations on that or other agricultural land.’

7. The following was a summary of the cases presented and was not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all evidence, both documentary and oral, 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 and Case Law

- Local Government Finance Act 1988 - Paragraphs 1 & 3 of Schedule 5, Non-Domestic Rating: Exemption - Agricultural premises
- Local Government Act 2003 – Paragraphs 1 & 2 of Part 5 Non-domestic rates, Section 67 Exemptions for agricultural buildings
- Eastwood Limited v Herrod (VO) [1971] AC 160
- Covell (VO) v Streatfield Hood & Company Limited [1984] RA 193
- Farmer (VO) v Buxted Poultry Limited [1993] AC 369
- Fridays Limited v Dawn Bunyan (VO) [2024] UKUT149 (LC)

Evidence and Submissions

8. Mr Wilcox informed the Tribunal that the appeal property consisted of three purpose built cold stores almost used exclusively for the storage of large quantities of loose potatoes to prevent produce from rotting before being sold. The grading and packing of the produce were carried out elsewhere. There was a small element of storing daffodil bulbs which was negligible.
9. Located next to the appeal property was agricultural land occupied by the appellant and due to the close physical relationship, it was considered contiguous.
10. As a matter of fact, Mr Wilcox confirmed that at both material days, 1 September 2018 and 28 March 2022, no potatoes were grown on the land adjacent to the appeal property.
11. In 2018, the appellant’s agricultural operation for producing potatoes was farmed on approximately 340 acres of agricultural land at numerous sites around Pembrokeshire and within 20 kilometres of the appeal property. At that

time, the bulk of produce being grown on the adjoining land to the appeal property was cauliflowers and daffodils. 100% of the potatoes stored at the appeal property were from third-party farmers.

12. In 2022, the expansion in farmland holdings which the appellant had acquired increased dramatically from 340 acres to approximately 739 acres with potatoes grown on 45 acres of this land.
13. Mr Wilcox clarified that as with any farming enterprise such as that of the appellant, crop rotation was required to provide variation in what was grown, as the same product cannot be grown in the same field year after year. Therefore, in accordance with good farming practice, products were rotated on a 7-year cycle. At the material dates, no potatoes were grown in the land which adjoined the appeal property. However, agricultural operations of potatoes resumed in 2024.
14. He also confirmed that at the second material day, a small number of potatoes (approximately 2%) were grown by the appellant and stored at the appeal property. The majority of potatoes stored at the appeal property were grown by third-party farmers, as a part of a pooling arrangement to achieve economies of scale without those farmers bearing the cost of building and operating their own cold stores.
15. Mr Wilcox intimated that the respondent may take issue with the low percentage figure adopted suggesting that it should be higher. However, he contended that it would make no difference whether it was 100% or 0% for reasons he would provide.
16. Following the amendment to Paragraph 3(a) of Schedule 5 to the 1998 Act by the Local Government Act 2003, it was considered irrelevant that potatoes were grown elsewhere by other farmers and not by the appellant, and that they were stored at the appeal property for cold storage, as it was clearly an agricultural operation.
17. In support of his contention that the appeal property should qualify for agricultural exemption, he referred to the Upper Tribunal (Lands Chamber) (UT) decision in relation to *Fridays Limited v Dawn Bunyon (VO)* [2024].
18. Mr Wilcox explained that in the *Fridays* case, the appellant argued that three buildings were 'occupied together with' agricultural land, following a pooling arrangement for egg processing. Whereas the Valuation Officer opined that the buildings, whilst in common occupation with adjoining land, did not work together and therefore did not satisfy the 'occupied together' test.
19. He explained that Chequer Tree Farm, the headquarters of Fridays Limited, encompassed 530 acres including arable land used to grow wheat and barley for chicken feed along with buildings used for egg packaging. No eggs were produced at this farm.

20. Fridays Limited was a massive producer eggs. Each week approximately 1.7 million of the eggs were being produced on farms owned by Fridays and 1.4 million eggs being produced by other independent farms.
21. The dispute focused on whether the three buildings used for packing, packaging and storing of eggs should be exempt from rating with the key issue being the same as in the subject appeal, whether the buildings were *'occupied together with agricultural land and used solely for agricultural operations on that or other land'*.
22. Consequently, the UT in the case of *Fridays* considered the meaning of *'occupied together with'* in light of authoritative cases, in particular that of *Farmer (VO) v Buxted Poultry Limited [1993]*.
23. The UT found that the amendment to Paragraph 3(a) of Schedule 5 to the 1988 Act, which added the words *'or other land'* to the provisions, allowed for a broader interpretation of *'occupied together with'*, meaning that a building could be used in connection with agricultural operations on other land, not just the land it occupied.
24. The UT concluded that the three buildings at Chequer Tree Farm were occupied together with the agricultural land and used solely in connection with agricultural operations on Fridays Farms and therefore met the criteria for exemption.
25. Mr Wilcox highlighted the fact that whilst the UT's decision in respect of *Fridays* was under appeal to the Court of Appeal, it did not change the narrative of the approach, as the decision of the UT was still authoritative.
26. He then referred to two other cases highlighting the requirement for the buildings to be used solely in connection with agricultural operations, which he intimated gave an understanding and guidance of what used in connection would mean.
27. The case of *Eastwood Limited v Herrod (VO) [1971]* concerned buildings that were used as chicken houses for the purpose of producing broiler chickens. Whilst the case was preceded by the 2003 amendment, it provided general guidance and detail which was helpful when considering the connection needed between what was being done in the building and what was being done on the land in order to qualify for the exemption.
28. Lord Reid said that the key words were *"used in connection with"* adding that the ordinary usage of the English language suggested that the buildings must be subsidiary or ancillary to the agricultural operations and that it should be *"interpreted in a reasonably liberal manner"*.
29. Lord Reid also said that when considering the limits of that approach *"one must have regard to ordinary and reasonable practice"* and to *"properly include operations reasonably necessary to make the product marketable or disposable to profit"* but not as far as *"an independent purpose distinct from*

the farming operations” such as a farmer setting up a butcher’s shop to sell his own meat, which would not be exempt.

30. In the case of *Covell (VO) v Streatfield Hood & Company Limited [1984]*, the status of dairy farm buildings was considered, utilised for producing, pressing, grading and storing of cheese, which provided a view of the margins between qualifying and non-qualifying use. Having regard to the *Eastwood* case, the Lands Tribunal held that the activities in the buildings of making cheese were in connection with the agricultural activity of keeping dairy cattle for milk, which as a consequence, recognised that whilst the operations had been extended in scale, it had not in nature.
31. In drawing the threads of his case together, Mr Wilcox explained that there were two tests to be satisfied in that, was it occupied together with agricultural lands and then, used in connection with agricultural operations on the land.
32. Beginning with the occupation test, he highlighted that in the *Fridays* case, the UT was clear that there was no requirement for any functional connection between the land that was adjacent to the buildings and the buildings themselves. It was sufficient that they were occupied together as part of the same enterprise.
33. Regarding the buildings at the appeal property being occupied together with agricultural land, Mr Wilcox confirmed that the occupation test was clearly met due to the fact there were 30 acres of agricultural land adjoining the site of the appeal property, which was operated by the same business as at the material days with the purpose of producing vegetables for market along with the land being contiguous to it. Clearly occupied together with.
34. In respect of the use test, Mr Wilcox again referred to the *Fridays* case which directed that land used with buildings did not have to be land owned by the operator and could be that of a third-party
35. Having regard to the *Fridays* case, he questioned in respect of the subject appeal whether the storage of potatoes was reasonably necessary to make them marketable. He replied that it clearly was, in order to prevent the potatoes from rotting.
36. Referring to the *Eastwood* case, he commented that Lord Reed gave the example of storage as being a relevant connection. Therefore, it was plain to see what was happening in the subject appeal in that the appeal property had a relevant connection with the land where the potatoes were grown.
37. Mr Wilcox also highlighted the fact that prior to the 2003 amendment, the *Covell* case highlighted that scale was not an issue.
38. He remarked that whilst the appeal property contained very large cold stores providing storage for a significant tonnage of potatoes, it was how modern pooling arrangements operated within modern farming practices. If scaling up was not a problem before pooling was allowed, then it was not a problem now where it allowed farmers to pool its produce within larger, bigger cold stores.

39. He questioned whether it was the intention of Parliament to allow good, efficient modern practice to fall outside the agricultural exemption? He opined that it did not and intimated that it would appear very strange if Parliament were to undermine its own practice.
40. Accordingly, for the reasons he had provided and for the state of the law as it stood today, Mr Wilcox reiterated his opinion that both the use and occupation tests were met and therefore at both material days, the appeal property should be exempt.
41. Mr Donmall clarified that the sole issue for the Tribunal's consideration was what was considered as acceptable for buildings to be occupied together with land within the context of the provisions contained in Paragraph 3(a) of Schedule 5 to the 1988 Act.
42. He explained that whilst there were two key elements to the said provisions; a) '*occupied together with agricultural land*' and b) '*used solely in connection with agricultural operations*', he confirmed that the respondent would not be pursuing the 'use' element. He would however challenge the relationship between the appeal property and the agricultural land which the appellant was occupying and whether an exemption should apply. He contended that no exemption was warranted.
43. Mr Donmall submitted that in order for the exemption to apply there had to be some functional connection between the appeal property and the agricultural land in common occupation, even if the appeal property and the land do not form a single agricultural unit.
44. He confirmed that the appeal property, which was not occupied with any agricultural land, was not exempt under the said provisions and was not in dispute between the parties, as it was a warehouse used for cold storing potatoes grown on third-party land. Therefore, in respect of the subject appeal, the fact that a building was used for the storage of potatoes grown on agricultural land not occupied by the appellant was not sufficient to make it exempt.
45. Mr Donmall added that even if there were no requirement of the buildings along with the jointly occupied land forming "a single agricultural unit", there would still have to be some functional connection between the buildings and the agricultural land in common occupation.
46. In support of his contention he provided an analogy of a warehouse that stored televisions and land on which barley was grown. He said this demonstrated that the use of the warehouse was independent of the land.
47. Mr Donmall remarked that the appellant had argued strongly about the question of independence. He commented however that there may also be an agreement, that the use of buildings for storage of potatoes was independent of a small amount of land, which the occupier was also in occupation of.

48. He provided an example of a large warehouse which cold stored potatoes taken from thousands of acres of third-party land, which was not exempt and contemplated a scenario in which that occupier had decided to occupy a half an acre of land. He contended that in that scenario, it cannot be correct to exempt that warehouse for what was basically a storage operation and therefore attracting an exemption due to the diminimus aspect of agricultural holding. He concluded that it could not be correct that an enormous warehouse with a small piece of land producing a hundred potatoes can be deemed exempt.
49. Mr Donmall suggested that simply occupying some agricultural land was not enough and that there had to be some meaningful connection between the buildings and the land.
50. In support of his contention, he referred to the *Eastwood Limited v Herrod (VO) [1971]* case and highlighted the scale of farmland involved, which extended to 1,150 acres, including 72 broiler houses accommodating 22,000 birds. Of this total acreage, 20 acres were used for the purpose of releasing cockerels, while the substantial remaining acreage was dedicated to growing barley for feeding the birds, with other crops rotated to ensure proper cultivation. He submitted that this was manifestly insufficient by explaining that the grain cultivated on this land accounted for only approximately 13% of the total grain used in the mill, with the home-grown barley contributing a mere 4% by weight of the materials used in pellet production.
51. He contended that the *Herrod* case clearly demonstrated that a significant amount of more land would have been required to sustain the feeding needs of the birds. He emphasised that the critical words in Lord Reid's judgment were "*used in connection with*" and that his Lordship's conclusion was reinforced by the view that "*this derating was intended to benefit agriculturalists but not those conducting commercial enterprises where the use of agricultural land plays only a small part in the enterprise.*"
52. Mr Donmall further referred to additional passages from the judgment, contending that the concept of independence could be interpreted in two ways. Firstly, independence could denote that the operation was separate from agricultural land, as he illustrated in his television case analogy. Secondly, independence could arise where the use of a building was not substantially dependent on the adjoining land, that being, where the operation of the building would remain largely unaffected even if the land were not present. He submitted that in the subject appeal, the warehouse in question would have continued to function in 2018 in precisely the same manner, irrespective of the existence of the land.
53. Reference was also made to Lord Morris's decision in the *Herrod* case, where his Lordship observed that "*the enterprise of the appellants could probably be conducted without having the ownership and occupation of the 1,150 acres.*" This led to his conclusion that "*in this case, we are concerned with an independent commercial enterprise which is not much affected by the ownership and occupation of agricultural land.*"

54. Mr Donmall submitted that the *Herrod* case does not suggest that feeding chickens within a building had no connection to the land from which chicken feed was produced. Instead, he contended that the case established that the scale of operations was such that the building in question did not exhibit the necessary degree of connection with agricultural land to qualify for agricultural exemption.
55. Reference was then made to the *Covell (VO) v Streatfield Hood & Company Limited [1984]* rating appeal. He submitted that the principal reason for citing this case was to highlight that any distinction lay in its scale rather than in its nature. While, in the *Covell* case, all the milk used in the cheese production process was sourced from the adjoining agricultural land, and the operation was conducted as a single enterprise, the circumstances of that case were not directly comparable to the subject appeal. He contended that the presence of differing third-party business arrangements in the subject appeal precluded a direct application of the reasoning in *Covell*.
56. Mr Donmall referred to the conclusion of Lord Slynn in the *Farmer (VO) v Buxted Poultry Limited [1993]* case where he said that *'It is not, however, sufficient to ask generally whether the building or buildings and land in question are all part of the same business enterprise. What is necessary to show is that two buildings, or as the case may be the buildings and agricultural land, are occupied together so as to form in a real sense a single agricultural unit.'*
57. The UT held that the House of Lords decision in the *Buxted* case was not relevant to the construction of the phrase *"occupied together with"* in accordance with Schedule 5 of the 1988 Act. Specifically, the UT found that the phrase should not be interpreted as requiring the land and buildings to be *"occupied together so as to form in a real sense a single agricultural unit."* Instead, the UT considered a single question, whether Egg Buildings were occupied together with the adjoining arable land at Chequer Tree Farm and concluded that they were.
58. Mr Donmall however submitted that had the interpretation in the *Buxted* case been applied, the UT would not have found that the Egg Buildings were *"occupied together with"* the arable land at Chequer Tree Farm. Instead, he suggested the court would have concluded that the buildings were occupied as part of a single agricultural unit with the nearby Fridays Farms.
59. In the *Buxted* case, the key finding was the necessity of considering the buildings and the land together to determine whether they formed a single agricultural unit. The difficult question the UT had to address was how the test of a single agricultural unit should operate in light of the 2003 Act amendment to Schedule 5 to the 1988 Act, which allowed for use in connection with third-party land.
60. Mr Donmall accepted that, even if there was no strict requirement for the buildings and the jointly owned land to constitute a single agricultural unit, there must still be some functional connection between the buildings and the agricultural land in common occupation.

61. He confirmed that the UT judgment in the *Fridays* case was currently pending appeal to the Court of Appeal and accepts that, insofar as it was relevant, remained binding authority on the Valuation Tribunal.
62. Mr Donmall however submitted that for the reasons he had already provided, the *Fridays* case concerned a factual scenario in which there was unquestionably some use made of the occupier's land by the buildings, albeit, on the Valuation Office's case before the UT, not the correct portion of the occupier's land. In that critical respect, the circumstances in the *Fridays* case were materially different from those in the subject appeal. The majority of the eggs stored in the buildings in question originated from the occupier's own land, where in contrast to the subject appeal, none of the potatoes stored in the appeal property were from the adjacent land to the appeal property.
63. He also submitted that in the *Fridays* case, a point to note was the factual distinction between that case and the subject appeal in that the land was divided into two sections: one known as Chequer Tree Farm and four additional parcels collectively referred to as "Friday's farms."
64. In that case, 1.7 million eggs were processed from Friday's own farms and from its co-occupied farms with an additional 1.4 million eggs sourced from third-party farms. While the three buildings in question were used substantially by both internal and external providers, the predominant use was for processing eggs produced on agricultural land and buildings owned by the occupier albeit they were non-adjacent.
65. Mr Donmall contended that the *Fridays* case should not be interpreted as establishing that no link was required between the buildings and the occupier's own agricultural land. Whilst it was accepted that the *Fridays* case determined that the test of "a single agricultural operation" does not apply, it should not be read as suggesting that no functional connection was necessary.
66. The UT acknowledged that "*occupation and use have been split up by the amendment*" but went on to clarify that "*the word 'together' is likely to have a meaning beyond occupation by the same person at the same time, and we take it to mean that the building and land must be occupied as part of the same enterprise and must be geographically close if not contiguous.*" There must be more than mere common occupation; there must be a substantive connection between the occupier's land and the building.
67. He intimated that to hold otherwise would lead to an illogical outcome whereby a potato warehouse storing third-party potatoes would fall outside the exemption, yet the same warehouse would be within the exemption merely because the occupier happened to own a small field growing an unrelated crop, such as barley. The appellant's construction of the legislation in that manner was unsustainable.
68. Mr Donmall added that the phrase "*occupied together with*" in the exemption must be understood as requiring some functional linkage between the occupier's buildings and the occupier's land. While it was accepted that,

pending the Court of Appeal's decision in the *Fridays* case, the required linkage does not need to amount to a "*single agricultural unit*", which would otherwise exclude situations involving significant use in conjunction with third-party land, a scenario in which the buildings are used exclusively in connection with third-party land would not meet the statutory test. There must be a meaningful connection between the buildings and the land in common occupation.

69. In respect of the first proposal with its material day in 2018, he contended that the building was being used for a commercial purpose entirely unrelated to the land also occupied by Puffin Produce Limited. It was not, therefore, "*occupied together with*" that land for the purposes of the statutory exemption.

70. Mr Donmall also suggested that the position was no different from that of a potato storage warehouse operating independently of any agricultural land existing solely for the storage of third-party potatoes. Adopting the language of Lord Reid in the *Eastwood* case, the buildings in 2018 formed "*a large commercial enterprise in which the use of the land played no part at all.*"

71. He then highlighted the relevant factual distinction concerning the second proposal with the material day in 2022, which was that Puffin Farms Limited claimed to have used 45 acres of its land for potato cultivation.

72. Mr Donmall analysed the data provided by the appellant which indicated that in 2019, a total of 21,947 boxes of potatoes were stored in the warehouses, which were grown across approximately 1,207 acres. Assuming a comparable volume of storage in 2021, the 45 acres of land claimed to be used for potato production would account for only 3.7% of the potatoes stored in the warehouses on the assumption that all the potatoes grown by the appellants were in stored at the appeal property.

73. He suggested that a 3.7% use of the appeal property potatoes in 2022 was de-minimis and was significantly lower than the percentage of home-grown grain used in the case of *Eastwood*. Paragraph 8(3) of Schedule 5 to the 1988 Act states that in determining "*whether a building used in any way is solely so used, no account shall be taken of any time during which it is used in any other way, if that time does not amount to a substantial part of the time during which the building is used.*" By extension, a use of the building for only 3.7% of the appellant's produce in 2022 does not constitute a substantial part of its overall use.

74. Accordingly, for the same reasons set out in respect of the first proposal, he contended that the requisite connection between the buildings and the agricultural land was not established. The potato storage warehousing constituted a large commercial enterprise in which the role of the land was marginal at best.

75. Mr Donmall therefore suggested that if his contentions regarding the first proposal were correct where no potatoes from the occupier's land were stored, then the analysis should not differ purely for the fact that subsequently, the occupier merely grew a very small proportion of potatoes.

He emphasised that the level of production was insufficient to satisfy the necessary degree of connection required by the “*occupied together with*” test and that there was no real connection between the appeal property and the agricultural land.

76. In summary, Mr Donmall emphasised that the appeal property was nothing more than a commercial potato storage warehouse facility, with no relevant connection to the agricultural land which it occupied and therefore no exemption should apply.
77. In his rebuttal, Mr Wilcox stated it was helpful that the respondent in his submission had conceded that the use test had been met and therefore the only issue to consider was that of the occupation test.
78. He however considered the respondent had attempted to reintroduce the argument of a need for functional connection between what was happening at the appeal property and on the adjoining land. That was clearly not the outcome of the *Fridays* decision made by the UT. The actual logic of the UT was that there was no need at all for any functional connection and that decision was therefore binding.
79. The respondent raised the issue concerning the land adjoining the appeal property being diminimus. Mr Wilcox pointed out that the land cannot be considered diminimus as it was 30 acres, which was about three times the size of the land on which the appeal property sat. Also, by 2022, the whole of appellant’s holdings in the vicinity were occupying some 700 acres and therefore it was clearly not diminimus. The diminimus rule was that if it was too small you ignore it, which was clearly not the case in the subject appeals.
80. Mr Wilcox highlighted that the key issue regarding the *Eastwood* case was purely concerned with the use element, which was now not for this Tribunal’s consideration as conceded by the respondent.
81. The *Eastwood* case also supported the appellant’s contention regarding occupation, as the buildings in that case were occupied together with 1,150 acres of agricultural land to create feed, suggesting that the occupation test can be passed even in those circumstances, as the use as conceded by the respondent had been passed.
82. In the *Fridays* case, the UT found that the three buildings were occupied, together with the arable land at Chequer Tree Farm. Therefore, the occupied together test was passed for the land growing barley for the land that did not have a functional connection. The occupation test was passed as it was occupied, together with land which was operated as the same business enterprise next door even though there was no functional connection.
83. In summarising, Mr Wilcox guided the Tribunal through the elements of occupation Parliament had set as interpreted by the UT decision in the *Fridays* case and confirmed that the buildings at the appeal property and the land to the south was occupied by the same person and that his client jointly controlled the farming and storage element. The land was geographically

close, if not contiguous and he did consider that it mattered that there was an absence in functional connection.

84. Accordingly, in applying the actual reasoning of the UT's decision in respect of the *Fridays* case against occupation, the only test now in dispute, Mr Wilcox requested that the subject appeals be allowed as all of the elements of the occupation test have been met.

Decision and Reason

85. Having considered the evidence presented to it, the Tribunal was persuaded by the appellant's argument and accordingly determined to allow both appeals.
86. In arriving at its decision, the Tribunal had regard to the legislative provisions contained within Paragraph 3(a) of Schedule 5 to the Local Government Finance Act 1988, as amended by the Local Government Act 2003, namely:
- 'A building is an agricultural building if it is not a dwelling and (a) it is occupied together with agricultural land and is used solely in connection with agricultural operations on that or other agricultural land'.*
87. During the hearing, the respondent conceded that the element 'use' within the provisions had been met and therefore it was only the 'occupation' test for the Tribunal's consideration.
88. The Tribunal was mindful that the decision made by the Upper Tribunal in respect of *Fridays Limited v Dawn Bunyan (VO)*, mirrored those circumstances raised in the subject appeals which was being challenged at the Court of Appeal pending determination.
89. The Tribunal was conscious that the decision made by the Upper Tribunal in respect of the *Fridays* case was a statement of the law by a superior court and therefore was still current and binding on the legislation as it stood today, and as a consequence, was reluctant to deviate from its directions.
90. Notwithstanding the Upper Tribunal's decision in respect of the *Fridays* case, the Tribunal was also aware of past authoritative cases which provided guidance on how the law relating agricultural exemption had evolved.
91. It was apparent to the Tribunal that the Upper Tribunal in its decision regarding the *Fridays* case provided direction regarding a better understanding of the term '*occupied together with*', meaning that a building could be used in connection with agricultural operations on other land and not just land it occupied.
92. The Tribunal opined that the appeal property along with its adjoining contiguous land, which was not diminimus, operated as one enterprise by the appellant along with other land not operated by the appellant. It provided cold storage facilities for third-party produce to be pooled and stored at the appeal

property, as a part of accepted farming arrangements following the 2003 Act amendment.

93. The 2003 Act amendment allowed for a broader interpretation of '*occupied together with*' meaning that a building could be used in conjunction with other land and not just the land it occupied.
94. It was quite apparent to the Tribunal that the 2003 amendment of Paragraph 3(a) of Schedule 5 to the 1988 Act provided guidance that the exemption was extended beyond agricultural operations on that land and included operations on other land. The storage of potatoes at the appeal property cold stores was to prevent the produce from sprouting and going rotten and was therefore an agricultural operation.
95. In view of the above, the Tribunal found that the appeal property was occupied together with agricultural land in agricultural operations which were occupied with contiguous land, and other land, and therefore was exempt.
96. Accordingly, as the occupied test was met, the subject appeals are allowed.