

Case Name: *University Hospital Birmingham NHS Trust v Mr Daljit Virk (VO)* Appeal Number 462028742130/541N10 (VTE) (30 July 2018)

Topic: Repair and material day (post March 2015)

Full case: [click here](#)

Summary: If premises are undergoing redevelopment and are incapable of occupation, then (post Monk) they should be deleted from the rating list but in this case the date of deletion was limited to 1 April 2015 as the proposal for deletion had been made after 31 March 2015 (where the date of commencement of the development had been 13 October 2014).

Commentary: This VTE decision determined whether a property should be deleted from the 2010 rating list, following the Supreme Court decision in *Newbigin (VO) v Monk* (removal from the rating list of premises undergoing redevelopment). The tribunal allowed the appeal and deletion took effect from 1 April 2015.

A proposal was made on 13 March 2017 to delete the property from the list as it was not capable of beneficial occupation, following the Supreme Court decision referred to above. The issue in dispute between the parties was the material day on which the physical state of the property and its locality must be taken to exist when determining the appeal.

A scheme of development works had commenced on 13 October 2014 and was completed in June 2015. During the works the parties were in agreement that the property was incapable of beneficial occupation. The appellant contended that the material day was 13 October 2014, when the works commenced. The VO's position (based on the 2009 appeal regulations) was that the material day was the date of the proposal, 13 March 2017, by which date the works had been completed.

The appellant had made two proposals, one for deletion (the subject of the appeal) and the other for reduction to a nominal value of £1. The VTE considered that each proposal was on different grounds (a proposal must always state the ground of appeal and which subparagraph of paragraph 4 of the 2009 appeal regulations is being relied upon) and decided that the request for deletion was valid. It only remained for it to determine the material day.

The relevant regulation provides that where deletion is sought the material day is the day on which the circumstances giving rise to the alteration [in the rating list] occurred. The VTE concluded that the material day was 13 October 2014 (when the development had commenced). However, in general the earliest date from which a deletion could apply where proposals are made after 31 March 2015 is 1 April 2015 and the tribunal directed that the rating list be amended accordingly.