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First-tier Tribunal (Tax)

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Neutral Citation: [2025] UKFTT 1210 (TC)

Case Number: TC09658

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

By remote video hearing

Appeal reference: TC/2024/04730

STAMP DUTY LAND TAX - claim for multiple dwellings relief - was the property comprised of three single dwellings - no only comprised of two single dwellings - appeal dismissed

Heard on: 06 August 2025

Judgment date: 10 October 2025

Before

**TRIBUNAL JUDGE MICHAELA SNELDERS
DR PHEBE MANN**

Between

**MR JEREMY TOWN
Appellant
and**

**THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS
Respondents**

Representation:

For the Appellant: Jermey Town, appeared in person

For the Respondents: Gemma Truelove, litigator of HM Revenue and Customs'
Solicitor's Office

DECISION

INTRODUCTION

1. With the consent of the parties, the form of the hearing was video using the Teams video platform. A face to face hearing was not held at the Appellant's request due to his caring responsibilities for his disabled daughter.
2. The documents to which we were referred are included in a document bundle of 253 pages and the Respondents' skeleton argument of 10 pages.
3. Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.
4. This appeal concerns Stamp Duty Land Tax (**SDLT**) and in particular whether the Appellant (Mr Town) is entitled to claim Multiple Dwellings Relief (MDR) on the acquisition of a property at Springwood House, Appledore Road, Kent TN30 7DH (the Property) for £1,512,500 on 30 June 2021 (the Purchase) calculated on the basis that it was comprised of three separate dwellings.
5. Mr Town asserts that the Property was comprised of three single dwellings on the 30 June 2021, the effective date of the transaction (EDT), and therefore qualified for MDR calculated on that basis. The Respondents (HMRC) assert that the Property was comprised of two single dwellings on the EDT and so qualified for MDR calculated on that basis.
6. Mr Town is appealing against a closure notice issued by HMRC on 27 October 2023 pursuant to paragraph 23 of Schedule 10 to the Finance Act 2003 (FA 2003) which amended Mr Town's **SDLT** return in respect of the Property making £10,499 repayable by Mr Town to HMRC. This amount is the additional **SDLT** that HMRC assert is due from Mr Town as a consequence of HMRC calculating Mr Town's claim for MDR on the Purchase, on the basis of it being comprised of two single dwellings rather than three single dwellings.

BACKGROUND

7. On 30 June 2021, Mr Town purchased the Property, which included, what we refer to neutrally as Springwood House, Springwood Cottage and the Summerhouse.
8. On 7 July 2021, Mr Town filed his **SDLT** return which included a claim for MDR on the basis that the Property was comprised of two single dwellings.
9. Mr Town's agent, Hallet & Co (the Agent), wrote to HMRC by letter dated 7 April 2022 requesting an amendment to Mr Town's **SDLT** return and requesting a repayment of **SDLT** on the basis that the Property was in fact made up of three single dwellings.
10. HMRC gave effect to the requested amendment on 26 May 2022 and repaid Mr Town the resulting reduction in **SDLT** of £10,499.
11. However, on 11 January 2023 HMRC opened an enquiry into Mr Town's amended **SDLT** return and on 27 October 2023 HMRC issued a closure notice concluding that the Property was made up of two single dwellings at the EDT. The closure notice amended Mr Town's **SDLT** return accordingly making an additional £10,499 **SDLT** due.

THE LAW

12. The legislation governing **SDLT** is set out in Part 4 of the FA 2003. Unless otherwise stated, references to sections and schedules in this decision are to sections and schedules of the FA 2003 as it was in force on the EDT.

13. Section 42 makes **SDLT** chargeable on land transactions and section 55 sets out the applicable rates of **SDLT** payable by reference to the amount of consideration paid and whether the relevant land consists of entirely residential property or includes non-residential property. **SDLT** is chargeable on the EDT of a land transaction which in this case means the date of completion (section 119).

14. On the EDT the applicable rates of **SDLT** payable on a residential land transaction were as follows:

So much as does not exceed £250,000 - 0%

So much as exceeds £250,000 but does not exceed £925,000 - 5%

So much as exceeds £925,000 but does not exceed £1,500,000 - 10%

The remainder (if any) 12%

15. Section 58D introduces Schedule 6B which provides for MDR, the effect of which, as set out in paragraph 4 of Schedule 6B, is to lower the effective rate of **SDLT** by dividing the chargeable consideration by the number of dwellings which are the subject matter of a land transaction, applying the applicable rates in section 55 to that amount to establish the **SDLT** charge in relation to each dwelling and then multiplying that amount by the number of dwellings to calculate the total **SDLT** chargeable on the residential land transaction.

16. Paragraph 2 of Schedule 6B identifies the transactions to which MDR applies which includes a land transaction if its main subject-matter consists of an interest in at least two dwellings (paragraph 2(1)(a) and 2(2)(a)). The reference in Schedule 6B to an interest in a dwelling is to any chargeable interest in or over a dwelling (paragraph 2(5)).

17. Paragraph 7 of Schedule 6B contains rules for determining what counts as a dwelling for the purposes of Schedule 6B, the relevant part of which for the purpose of this appeal provides at sub-paragraph (2) that:

"A building or part of a building counts as a dwelling if-

(a) it is used or suitable for use as a single dwelling, or

(b) it is in the process of being constructed or adapted for such use."

18. The key issue for us to determine is therefore whether the Property was made up of three dwellings at the EDT, as contended by Mr Town, which in turn will require us to determine whether the Property comprised of three buildings or parts of a building that are suitable for use as a single dwelling.

19. What counts as being suitable for use as a single dwelling is not defined in the legislation but the leading authority on what constitutes a single dwelling for the purpose of **SDLT** is the decision of the Upper Tribunal in the case of *Fiander and Bower v HMRC* [\[2021 UKUT 156\]](#) (*Fiander*) which binds us. At paragraphs [47] - [48] of that decision the Upper Tribunal stated as follows:

"47. The HMRC internal manuals on **SDLT** contain various statements relating to the meaning of "dwelling" and "suitable for use as a single dwelling", but these merely record HMRC's views and do not inform the proper construction of the statute.

48. We must therefore interpret the phrase giving the language used its normal meaning and taking into account its context. Adopting that approach, we make the following observations as to the meaning of "suitable for use as a single dwelling":

(1) The word "suitable" implies that the property must be appropriate or fit for use as a single dwelling. It is not enough if it is capable of being made appropriate or fit for such use by adaptations or alterations. That conclusion follows in our view from the natural meaning of the word "suitable", but also finds contextual support in two respects. First, paragraph 7(2)(b) provides that a dwelling is also a single dwelling if "it is in the process of being constructed or adapted" for use as single dwelling. So, the draftsman has contemplated a situation where a property requires change, and has extended the definition (only) to a situation where the process of such construction or adaption has already begun. This strongly implies that a property is not suitable for use within paragraph 7(2)(a) if it merely has the capacity or potential with adaptations to achieve that status. Second, **SDLT** being a tax on chargeable transactions, the status of a property must be ascertained at the effective date of the transaction, defined in most cases (by section 119 FA 2003) as completion. So, the question of whether the property is suitable for use as a single dwelling falls to be determined by the physical attributes of the property as they exist at the effective date, not as they might or could be. A caveat to the preceding analysis is that a property may be in a state of disrepair and nevertheless be suitable for use as either a dwelling or a single dwelling if it requires some repair or renovation; that is a question of degree for assessment by the FTT.

(2) The word "dwelling" describes a place suitable for residential accommodation which can provide the occupant with facilities for basic domestic living needs. Those basic needs include the need to sleep and to attend to personal and hygiene needs. The question of the extent to which they necessarily include the need to prepare food should be dealt with in an appeal where that issue is material.

(3) The word "single" emphasises that the dwelling must comprise a separate self-contained living unit.

(4) The test is objective. The motives or intentions of particular buyers or occupants of the property are not relevant.

(5) Suitability for use as a single dwelling is to be assessed by reference to suitability for occupants generally. It is not sufficient if the property would satisfy the test only for a particular type of occupant such as a relative or squatter.

(6) The test is not "one size fits all": a development of flats in a city centre may raise different issues to an annex of a country property. What matters is that the occupant's basic living needs must be capable of being satisfied with a degree of privacy, self-sufficiency and security consistent with the concept of a single dwelling. How that is achieved in terms of bricks and mortar may vary.

(7) The question of whether or not a property satisfies the above criteria is a multi-factorial assessment, which should take into account all the facts and circumstances. Relevant facts and circumstances will obviously include the physical attributes of and access to the property, but there is no exhaustive list which can be reliably laid out of relevant factors. Ultimately, the assessment must be made by the FTT as the fact-finding tribunal, applying the principles set out above."

20. There have been a number of FTT decision on the application of the *Fiander* principles set out above. However as stated in the FTT decision in *Winfield v HMRC*

[\[2024\] UKFTT 734 \(TC\)](#) at [16]:

"Limited help can be given by previous decisions which turn on their own facts. So, for example HMRC rely on *Dower v HMRC* [\[2022\] UKFTT 170](#) ("*Dower*") as authority that privacy is something which carries considerable weight. But in *Dower* it was also true that there was no kitchen. And this should colour other elements of the judgment"

21. Further in *Benjamin Packman (1) and Miranda Wood (2) v HMRC* [\[2024\] UKFTT 954 \(TC\)](#), the FTT agreed with the above view in *Dower* commenting as follows:

"[22] We were referred to a number of first instance decisions on both sides, however for the reasons given in *Winfield* we do not derive any real assistance from them as their fact patterns are different, and none establish any new principles.

[23] Both parties' attempts to piece together, jigsaw like, individual findings from individual cases is not in the end helpful where we must conduct a multi-factorial exercise on the facts as a whole as we find them to be in this case."

EVIDENCE AND FACTS

22. Mr Town did not provide a written witness statement but he provided oral evidence at the hearing, was cross examined by Ms Truelove for HMRC and answered questions from the panel.

23. In the hearing bundle we were provided with the marketing materials from Warner Gray who were the estate agents when Mr Town purchased the Property.

24. The marketing material included photos of the interior and exterior of the Summerhouse and the rest of the property as well as a floor plan.

25. From the above and from other documentary evidence contained in the hearing bundle, which included correspondence, photos and plans from the Agent and Mr Town, we make the following findings of fact as at the EDT:

(1) Mr Town purchased the Property as a family home and considered that the Summerhouse would be a good space for his severely disabled 12-year-old daughter to use. Mr Town's daughter uses the space and spends some nights in it with her father but she does not live in it exclusively.

(2) The Summerhouse is approximately 26 square metres and made up of an open plan living/kitchen area with a separate washroom containing a toilet and basin but no bath or shower.

(3) There is no separate bedroom in the Summerhouse.

(4) The Summerhouse is located in the garden of Springwood House next to the pond. There is an approximately 25 metres long footpath leading from the side of the garage (which is adjacent to Springwood House) to the Summerhouse, but the Summerhouse can also be accessed by walking over the grass of the Springwood House garden. There is a side gate to Springwood House garden which means that pedestrian access can be gained to the Summerhouse without going through the Springwood House drive.

(5) The Summerhouse has floor to ceiling windows in the form of French doors on three of its four walls. One of these French doors is facing the garage, which also has floor to ceiling windows. However the garage window is approximately 25 metres away from the Summerhouse. The other two French doors of the

Summerhouse look out on one side to the pond, with decking directly outside the Summerhouse onto the pond, and on the other side to open fields.

(6) The pond can also be accessed from Springwood House garden without going onto the decking outside of the Summerhouse.

(7) The French doors of the Summerhouse are made of toughened glass and have multipoint locks.

(8) The Summerhouse was separately registered for Council Tax on 31 October 2021, four months after the EDT, with effect from 3 June 2021.

(9) The Summerhouse does not have separate utility metres, utility bills, postal address, or Land Registry title. It does have its own fuse box.

(10) The Summerhouse is finished to a very high specification.

(11) Springwood Cottage has a shared drive with Springwood House but has its own private garden separated by a fence from the Springwood House garden.

(12) Springwood Cottage has a total area of 121 square metres over two floors and is comprised of four bedrooms, a sitting/dining room, a kitchen and two bathrooms.

DISCUSSION

26. The burden of proof is on Mr Town to establish that on a balance of probabilities the Property is comprised of three single dwellings. HMRC accept that Springwood House and Springwood Cottage are each single dwellings. Mr Town must therefore establish that on a balance of probabilities, the Summerhouse was suitable for use as a single dwelling on the EDT.

Appellant's submissions

27. In summary Mr Town submitted as follows:

(1) The Summerhouse is a high-class lodge, finished to a very high specification, with a dishwasher and separate water heating system. There is no reason why someone could not live there.

(2) The Summerhouse has privacy because it is approximately 25 metres away from the house so even with the French doors it is not possible to see into the Summerhouse from Springwood House or the garage. If this was a concern then a curtain or blind could be put on the French doors facing Springwood House and the Summerhouse would still have sufficient natural light from the other two French doors that look out to the pond and fields.

(3) The Summerhouse is very secure and being approximately 25 metres away from Springwood House has more privacy than most houses and more privacy than Springwood Cottage which is only 3 metres from Springwood House.

(4) The Summerhouse is of vital use for his severely disabled daughter and meets all her needs. She often refuses to use a bath and is afraid to take a shower so washing herself from the basin works well for her and she has no need for a bath.

(5) It is discriminatory under the Equality Act 2010 for HMRC not to acknowledge that the needs of his disabled daughter may be different from the needs of a non-disabled person. The criteria used to assess whether a dwelling meets the hygiene needs of its occupant should allow for the different hygiene needs of a severely disabled person.

(6) A portable bath or shower could be used in the washroom.

(7) The Summerhouse is assessed as a single dwelling for Council Tax purposes so HMRC are being inconsistent by not accepting that it is a single dwelling for MDR purposes.

(8) HMRC are also being inconsistent with respect to Springwood Cottage which it accepts is a single dwelling despite it having far less privacy from Springwood House than the Summerhouse.

(9) HMRC have not been out to visit the property and so are not in a position to assess whether the Summerhouse is a single dwelling.

Respondents' submissions

28. In summary Ms Truelove for HMRC submitted that the Summerhouse was not suitable for use as a single dwelling at the EDT for the following reasons:

(1) The Summerhouse's lack of washing facilities in the form of a bath or shower makes it unsuitable for use as a single dwelling. Ms Truelove relies on the UT decision of Fiander in support of this contention which states at [48](2) that the dwelling must enable the occupant to attend to their hygiene needs and that being able to clean one's body on a regular basis, with ease is a basic hygiene need that was not met by the Summerhouse at the EDT due to its lack of bath or shower.

(2) The lack of a built-in bath or shower in the Summerhouse does not meet the degree of settled permanence necessary for it to constitute a single dwelling.

(3) A portable shower or bath would not meet the hygiene needs of the general public due to the risk of spillage and lack of space in the washroom.

(4) The test as to whether a building is suitable for use as a single dwelling is objective. While the use of a pop up or portable bath may be suitable for certain occupants, the test is whether it would be suitable for occupants "generally". An objective observer would not consider the Summerhouse suitable for occupants generally due to the lack of a shower or bath.

(5) The Summerhouse is situated in the garden of Springwood House and three out of four of the walls of the Summerhouse have floor to ceiling windows in the form of French doors. The floor to ceiling French doors of the Summerhouse face floor to ceiling windows of Springwood House's gym in the garage which also significantly impacts the privacy of each space. This lack of privacy cannot be overcome by adding curtains over the French doors because they are the only natural light source for the Summerhouse. Consequently the Summerhouse does not provide the necessary degree of privacy and security consistent with the concept of a single dwelling.

(6) Unlike Springwood Cottage, the Summerhouse does not have its own separate, clearly demarked garden. In the context of the gated driveway and walls and fences surrounding the Property, the expectation would be that any occupant, other than persons with a close relationship to the occupants of Springwood House, would have a higher level of privacy and security than that offered by the Summerhouse.

(7) No separate utility meters, postal address or land registry title are further evidence that the Summerhouse is not a single dwelling.

(8) The Summerhouse does have its own council tax bill but it is not clear that it had a separate council tax account at the EDT and this is only a minor factor in any event.

(9) The size of the Summerhouse is very small and there is no storage or wardrobe space except for the kitchen cupboards.

(10) An objective observer would see two separate dwellings, Springwood House and Springwood Cottage, with Springwood House having the benefit of the Summerhouse in the garden.

Our view

29. The Summerhouse sits in the garden of Springwood House and as such it would not offer the occupant of either property complete privacy or security if they were independently occupied. The test is however not complete privacy and security, only that there is "a degree" of privacy and security "consistent with the concept of a single dwelling".

30. The Summerhouse does not have a fenced off separate garden and consequently the occupant of Springwood House would be able to go up to the French Windows on the three of the four walls of the Summerhouse. However a single dwelling will very often have windows that look out onto a street, common land or other property and many do not have a fenced off area in front of the window. This potential lack of privacy is counterbalanced in the case of the Summerhouse by the fact that it is positioned approximately 25 metres from Springwood House and that the two of the French windows open onto a pond and open fields. Consequently, unless someone purposefully walks up to the property and looks into the French windows, it is not easy to see into it. Further the Summerhouse is secured with toughened glass and multipoint locks.

31. It follows that we do not consider the degree of privacy and security offered by the Summerhouse to be inconsistent with a single dwelling.

32. It is not unusual for the cost of utilities to be included as part of the rent and so we do not consider that the lack of separate utility meters or bills for the Summerhouse is determinative, nor is its lack of a separate postal address. Although these are factors to take into consideration as part of the multifactorial test.

33. Equally however we do not consider that the fact that the Summerhouse is separately registered for Council Tax is evidence that it is a single dwelling. The Summerhouse was not registered separately for Council Tax at the EDT and it is not clear that the Local Authority made any assessment as to whether the Summerhouse met the statutory test for separate Council Tax registration, which is in any event different to the test for a single dwelling for MDR.

34. Whilst this is a multifactorial test, some factors carry greater weight than others and the physical configuration carries considerable weight.

35. In this appeal, the physical configuration is that the entire Summerhouse is very small at approximately 26 square metres, with no storage space for clothes and personal items outside of the kitchen area, and with no bath or shower. A bath or shower could in theory be installed, but the wash room is very small, and in any event we need to consider the physical configuration at the EDT. For most people their hygiene needs could not be met with the necessary settled permanence without access to a bath or shower and a portable bath would not generally be an acceptable alternative. Nor in such a small space would it be very practical. In light of the very high specification to which the Summerhouse has been finished, expecting a settled occupant to use a portable bath also seems quite incongruous.

36. Mr Town placed a lot of weight on the fact that the Summerhouse suited his disabled daughter's needs and the family find it a very important facility to support her needs. Mr Town submitted that HMRC are being discriminatory by refusing to accept that the

Summerhouse is a single dwelling because it may not suit the needs of an occupier who does not have special needs.

37. We disagree with this submission for two main reasons.

38. Firstly, Mr Town's daughter does not occupy the Summerhouse as a single dwelling in any event. She lives in Springwood House and uses the Summerhouse to spend time in, often sleeping in it and washing in it, but not as a single, self-contained, dwelling. As such Mr Town's daughter's use of the Summerhouse does not provide support for his assertion that it is a single dwelling that meets all of her needs.

39. Secondly, even if the Summerhouse did meet all of his daughter's needs, the test that HMRC, and on appeal the Tribunal, must apply is an objective test. As already quoted from [48] of *Fiander* above:

"[4] ... The motives or intentions of particular buyers or occupants of the property are not relevant.

(5) Suitability for use as a single dwelling is to be assessed by reference to suitability for occupants generally. It is not sufficient if the property would satisfy the test only for a particular type of occupant such as a relative or squatter."

40. The fact that Mr Town's daughter, who is severely disabled and therefore has very particular needs, enjoys using the Summerhouse does not assist Mr Town in satisfying the above objective test. He must demonstrate that the Summerhouse is objectively suitable for occupation generally as a single dwelling.

41. Taking a multifactorial test therefore we find that the security and relative privacy of the Summerhouse does not outweigh the combination of its small size, lack of storage space and a lack of shower or bath. As a result the Summerhouse does not enable a general occupier to inhabit it with the degree of settled permanence necessary to form a single dwelling. As stated by the FTT in *Dower*:

"In the **SDLT** context, a residential property that is used or suitable for use as a "dwelling" is to be construed as a building (or part of a building per s.116(6)) whereby the occupier can inhabit with a degree of settled permanence so as to form the centre of his existence."

42. We agree with HMRC's submission that, when looked at objectively, the Summerhouse is in fact a very luxurious Summerhouse in the large garden of Springwood House which the occupants of Springwood House can and do use to spend periods of time in when enjoying the garden or caring for their daughter.

CONCLUSION

For all the reasons set out above and making a multi-factorial assessment as we are required to do, we find that the Summerhouse is not a single dwelling, capable of satisfying the basic living needs of occupants generally, with the degree of self-sufficiency consistent with the concept of being a single dwelling. We therefore dismiss the appeal.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

43. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

Release date: 10th OCOTBER 2025

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