[2021] UKFTT 0291 (TC)

TC08233

STAMP DUTY LAND TAX – transactions involving multiple dwellings – purchase of property with main house, pool building and barn building – did pool building and/or barn building count as a second dwelling? – was pool building and/or barn building suitable for use as a single dwelling? – recent guidance of Upper Tribunal in Fiander *applied – buildings lacked kitchen facilities – held: balance of factors indicated buildings not suitable for use as single dwelling – appeal dismissed*

FIRST-TIER TRIBUNAL
TAX CHAMBER

Appeal number: TC/2020/01169

BETWEEN

MARK LOVELL **Appellants**

-and-

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

TRIBUNAL: JUDGE ZACHARY CITRON

The hearing took place on 22 April 2021. The form of the hearing was V (video) and was held on the Video Hearing Service platform. A face to face hearing was not held because of the risk to public health during the coronavirus pandemic. The documents to which I was referred were a hearing bundle of 181 pdf pages, an authorities bundle of 188 pdf pages and skeleton arguments.

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.

Mr P Cannon of counsel for the Appellant

Ms N Henshaw, litigator of HM Revenue and Customs' Solicitor's Office, for the Respondents

DECISION

1. The issue in this appeal was whether two buildings – a swimming pool building and a barn building – acquired as part of a single freehold title that included a main house were, together or separately, suitable for use as a single dwelling, such that the acquisition qualified for multiple dwellings relief ("**MDR**") from stamp duty land tax ("**SDLT**").

THE APPEAL

2. HMRC issued a closure notice on 29 October 2019 amending the appellant's SDLT return to show that the acquisition by the appellant of a freehold title (the "**property**") known as Lincoln Place in rural Essex on 3 August 2018 did not qualify for MDR, resulting in a further liability to SDLT of £10,000.

3. The appellant notified his appeal to HMRC by letter dated 28 November 2019. The appellant requested a statutory review by HMRC; this was concluded by letter dated 19 February 2020, upholding HMRC's decision.

4. The appellant notified his appeal to the tribunal by notice dated 19 March 2020.

EVIDENCE

5. I had a witness statement, and heard oral evidence, from the appellant, Mr Lovell.

6. The hearing bundle had Tribunal documents and correspondence between the parties, and included (inter alia):

(1) marketing material in relation to the property from David Burr (estate agents);

(2) a floorplan of the property; and

(3) photographs of the swimming pool building and the barn building.

FINDINGS OF FACT

7. I make the following factual findings based on the documentary evidence and Mr Lovell's oral evidence (which I accepted as to matters of fact (as opposed to matters of opinion)).

8. The appellant purchased the property for £613,000 on 3 August 2018.

9. The estate agent marketing materials for the property said as follows, as part of a larger paragraph under the heading "Outside":

> "There is an extensive party barn/studio providing further entertaining or office space as required which greatly adds to the versatility of the outside accommodation on offer. To the South Easterly aspect of the property is an indoor swimming complex which has a wash room featuring a shower, WC and wash hand basin adjacent to which is a large internal seating area. The pool has three sets of sliding patio doors which directly lead to an extensive South and West facing terrace which takes views to the grounds and countryside beyond."

10. Statements which follow concerning the property describe it as at the completion of the appellant's purchase, unless otherwise indicated.

11. The buildings on the property were

(1) a main residence building (the "**main house**") with 5 bedrooms and on two floors;

(2) a garage;

(3) a building (the "**pool building**") containing a swimming pool and, at one end, an open area with a shower/toilet room. The pool building was 16 metres by 6 metres, of which area the open area occupied about one quarter, including the shower/toilet room of 8 square metres. There were three glass sliding doors into the pool building; the doors were lockable. There was no barrier between the swimming pool and the open area; the open area had a seating area and power outlets; the shower/toilet room had a handbasin/sink;

(4) a building (the "**barn building**") of about 59 square metres in area comprising an open space, with a storage area at one end. The barn building had no toilet, shower, bathroom or other access to running water. It had a window; central heating; and power outlets.

12. The barn building was about 10 metres from the main house. The pool building was about 12 metres from the barn building.

13. Neither the pool building nor the barn building were being used as a dwelling.

14. Neither the pool building nor the barn building had the fixed physical features of a domestic kitchen; specifically, neither had

(1) a sink for food preparation and dishwashing (as opposed to the handbasin in the shower/toilet room in the pool building);

(2) fixed raised flat surfaces for food preparation and resting dishes and utensils; or

(3) cupboards for storing food and dishes.

15. The pool building and barn building did not have their own separate postbox, council tax bill or utility supply.

LAW

SDLT legislation

16. SDLT law is largely set out in Part 4 Finance Act 2003 (and references to sections in what follows are to sections of that Act). SDLT is charged on "land transactions" (s42) – which means any acquisition of a "chargeable interest" (s43). A land transaction is a "chargeable transaction" if it is not a transaction that is exempt from charge (s49). Under s48, "chargeable interest" is (in this context) an estate or interest in or over land. The effective date for a land transaction for SDLT purposes is the date of completion (except as otherwise provided) (s119).

17. Section 55 deals with the amount of SDLT chargeable in respect of chargeable transactions. Different rates are applied to the different parts of the consideration; in this context, the relevant rates are: 0% for so much of consideration as does not exceed £125,000, 2% for so much as exceeds £125,000 but does not exceed £250,000, and 5% for so much as exceeds £250,000 but does not exceed £925,000.

18. Schedule 6B provides for relief in the case of transfers involving multiple dwellings (see s58D). References in what follows to the Schedule and to paragraphs and sub-paragraphs are to that schedule and its paragraphs and sub-paragraphs.

19. The Schedule applies, inter alia, to a chargeable transaction if its main subject-matter consists of an interest in at least two dwellings (see subparagraphs 2(1)(a) and 2(2)(a)).

20. A reference in the Schedule to an interest in a dwelling is to any chargeable interest in or over a dwelling.

21. The rules for determining what counts as a dwelling the purposes of the Schedule are set out in paragraph 7, the relevant part of which provides as follows:

> "(2) A building or part of a building counts as a dwelling if –
>
> (a) it is used or suitable for use as a single dwelling …"

22. If it were found in this case that there was an acquisition of two dwellings (the main house and the pool building/barn building), then paragraphs 4 and 5 provide that SDLT is charged as follows (in simplified summary):

(1) Step 1: determine the tax that would be chargeable under s55 if the total consideration was divided by the number of dwellings

(2) Step 2: multiply the amount determined at step 1 by total dwellings

(3) But if the amount found at step 2 is less than 1% of the total consideration, then the tax is that 1% amount

Fiander v HMRC (Upper Tribunal – released 7 July 2021)

23. In *Fiander & anor v HMRC* [2021] UKUT 0156 (TCC) the Upper Tribunal offered some general guidance on the meaning of the phrase "suitable for use as a single dwelling" in paragraph 7. Having said (at [46]) that it did "not consider that decided cases in completely different contexts, such as council tax and VAT … form the basis for any reliable guidance as to its meaning, construed purposively", it then said this at [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."

Wilkinson v HMRC

24. *Wilkinson v HMRC* [2021] UKFTT 0074 (TC), which concerned MDR but was decided before the Upper Tribunal's decision in *Fiander*, had the following discussion of food preparation and washing up facilities in the property concerned:

"88. With sufficient space in the Bedroom's walk-in wardrobe to be able to plug in a microwave and to prepare food it would be entirely possible for meals to be prepared without even having to rely upon ready meals and deliveries. However, at the time of completion of the purchase the walk-in wardrobe was set up as just that. While it had a plug socket the evidence does not show that it had a surface on which a microwave could be placed and food prepared. For the reasons explained earlier the relevant time is the time of completion of the purchase with the features present at that time.

89. Even if I took into account the possibility of providing such a surface in the walk-in wardrobe, there is no plumbing for a sink in the wardrobe. Washing-up would therefore need to be done in either the small hand basin in the ensuite shower, or as Mr Cannon [taxpayer's counsel] suggested, by filling a plastic washing-up bowl and carrying it across the bedroom from one side to the other to get from the shower room to the wardrobe area. The suitability as a single dwelling is being stretched to, if not beyond, its reasonable limits.

90. Overall the lack of food preparation and washing up facilities weighs against the Bedroom being suitable for use as a single dwelling, although it is not determinative."

Uratemp v Collins

25. In *Uratemp Ventures Limited v Collins* [2001] UKHL 43, a case referred to by Mr Cannon, Mr Collins occupied a "modest" room in a hotel; the question for decision was whether the room he occupied could not constitute a "dwelling" (so precluding Mr Collins from enjoying security of tenure) because cooking facilities were not available. Lord Irvine said (at [2-3]) that he:

> ".. would impose no such restrictive interpretation. Such a restrictive interpretation would both be unwarranted by the statutory language and an inappropriate gloss on provisions designed to give some protection to tenants in modest rented accommodation under assured tenancies.
>
> 3. "Dwelling" is not a term of art, but a familiar word in the English language, which in my judgment in this context connotes a place where one lives, regarding and treating it as home. Such a place does not cease to be a "dwelling" merely because one takes all or some of one's meals out; or brings take-away food in to the exclusion of home cooking; or at times prepares some food for consumption on heating devices falling short of a full cooking facility."

26. Lord Bingham said (at [10]) that "the concept [of a dwelling-house] is clear enough: it describes a place where someone dwells, lives or resides. In deciding in any given case whether the subject matter of a letting falls within that description it is proper to have regard to the object of the legislation, directed as it is to giving a measure of security to those who make their homes in rented accommodation at the lower end of the housing market. It is not to be expected that such accommodation will necessarily offer all the amenities to be found in more expensive accommodation."

27. Lord Millet said:

> "31. In both ordinary and literary usage, residential accommodation is "a dwelling" if it is the occupier's home (or one of his homes). It is the place where he lives and to which he returns and which forms the centre of his existence. Just what use he makes of it when living there, however, depends on his mode of life. No doubt he will sleep there and usually eat there; he will often prepare at least some of his meals there. But his home is not the less his home because he does not cook there but prefers to eat out or bring in ready-cooked meals. It has never been a legislative requirement that cooking facilities must be available for a premises to qualify as a dwelling**.** Nor is it at all evident what policy considerations dictate that a tenant who prepares his meals at home should enjoy security of tenure while a tenant who brings in all his meals ready-cooked should not. How, then, have the courts reached the conclusion that, as a matter of law, the presence of cooking facilities is an indispensable characteristic of "a dwelling"?
>
> …
>
> [58] In my opinion the position is relatively straightforward. The first step is to identify the subject matter of the tenancy agreement. If this is a house or part of a house of which the tenant has exclusive possession with no element of sharing, the only question is whether, at the date when the proceedings were brought, it was the tenant's home. If so, it was his dwelling …"

Carson Contractors v HMRC

28. *Carson Contractors Limited v HMRC* [2015] UKFTT 0530 (TC), another case referred to by Mr Cannon, concerned zero-rating for VAT purposes on building work for the conversion

of a barn for residential use. The Tribunal said at [36] that the issue was whether the main house and the converted barn were two separate dwellings – it was accepted that a single dwelling could consist of two or more buildings. The Tribunal noted at [42] that the VAT test did not relate to the actual use of the building but to the nature of its design; and this was an objective test. At [45], the Tribunal quoted *Uratemp* at [3], and added: "In our judgement a dwelling will, as a minimum, contain facilities for personal hygiene, the consumption of food and drink, the storage of personal belongings, and a place for an individual to rest and to sleep."

29. The Tribunal considered placed little weight on the facts that there was only one post box and only one council tax bill for the entire property. It found that the prohibition on separate occupation in the planning permission did not prevent the use of the converted barn as a dwelling by a person whose occupation served the main house. Just before concluding (at [59]) that the converted barn and main house were separate dwellings, the Tribunal found (at [58]) that the converted barn had "all the facilities of a dwelling":

> "… It has a separate entrance. Downstairs there is a large room with a kitchen and providing areas for living and dining. There are separate toilet and shower rooms and a conservatory. Upstairs there are several bedrooms, a bathroom with toilet and a separate WC. It has all the essential features of a dwelling."

APPELLANT'S ARGUMENTS

30. Mr Cannon argued that the pool and barn buildings together had the facilities necessary for privacy, personal hygiene, the storage of belongings and space to live and sleep. With regard to the consumption of food, as stated in the *Uratemp* House of Lords decision, it is for the occupier to choose whether to consume food prepared elsewhere, eat out or indeed to place electrical and white goods in the annex to allow food to be heated up. Appliances were readily available which would enable an occupier to prepare and heat food in the pool or barn building, for example a hot plate, microwave, kettle or grill. Any such appliances would be placed in the pool or barn building based on the occupation at that time; they do not have to be fixed to enable an occupier to make use of them.

31. Mr Cannon submitted that the fact that there was a toilet and shower in the pool building, but none in the barn building, cannot be a determining factor, given that the purchase of a single dwelling with an outside toilet would on this ground not constitute the purchase of a dwelling for SDLT purposes, which would be a surprising result.

32. Mr Cannon submitted that the pool and barn buildings were, together, a clearly distinct unit of accommodation; they were physically suitable for affording an occupier with the means for a private domestic existence in terms of having their own external means of entry and exit with their own living and sleeping accommodation, shower room and toilet and facilities. The absence of formal kitchen facilities would not be determinative. Moreover, in the context of modern lifestyles where is becoming increasingly common, particularly for younger and busy people, to prefer to order in meal delivery and/or to purchase ready made meals that can be heated in a microwave, formal kitchen facilities are often redundant and are not regarded by the general public as absolutely necessary for a self-contained dwelling.

33. Mr Cannon submitted that the fact that the pool and barn buildings did not have a separate utility supply and had no separate council tax liability is not relevant to the question of whether they were suitable for use as a separate dwelling because the statutory test is directed at physical suitability for separate use and not the intangible status of the accommodation in terms of separately metered utilities and council tax liability.

HMRC'S ARGUMENTS

34. HMRC contended that at completion the property was a single dwelling (of which the barn building and pool building formed part), not two dwellings. HMRC contended that the barn building and pool building did not constitute a separate single dwelling within the meaning of paragraph 7, whether taken together or considered individually, in their own right.

35. HMRC submitted that there were several factors that indicated that there were not two dwellings for MDR purposes:

(1) the property was described as a "substantial detached family home" in the marketing material from David Burr;

(2) that marketing material described the barn building as "providing further entertaining or office space as required which greatly adds to the versatility of the outside accommodation on offer". HMRC submitted that this is an appropriate description of the barn building, as opposed to the suggestion that it was a separate single dwelling;

(3) there was no evidence to suggest that the barn building had the necessary infrastructure in place at completion to enable kitchen facilities to be installed. In particular, there was no socket for an electric cooker or to allow a cooker to be hardwired into the supply or gas pipe. There was no sink or washing facilities. Furthermore, there were no work surfaces for meal preparation;

(4) the microwave and a fridge in the open area in the pool building shown in photographs supplied by the appellant were not part of the property acquired by the appellant and are not relevant to the question as to whether the building was suitable for use as a single dwelling at completion;

(5) there were only two, single, internal plug sockets providing power to the barn building. There were two additional double sockets, but it unclear whether they were accessible within the barn building. It appears that the kitchen facilities and media products could not be plugged in at the same time;

(6) the barn building did not have any bathroom facilities. These would have to be accessed in the pool building; there was no cover or shelter linking the two buildings. Any occupants of the party barn would also have to use the pool building to access any water required for drinking, cooking or washing up, given that the barn building appeared to have no sink. HMRC submitted that having to access the bathroom facilities and part of the kitchen facilities from outside the purported living space is neither realistic nor practical and undermines the coherence of the barn building and pool building as a separate single dwelling;

(7) there was no evidence that the bathroom facilities in the pool building were for the sole use of occupants of the barn building. HMRC submitted it is unrealistic to suggest that the pool building was part of a second dwelling separate from the main house. The use of the swimming pool was clearly an attractive feature of the property. It is unrealistic to suggest that the owners of the property residing in the main house would wish to include the pool building in a second separate dwelling, thereby excluding themselves from using it.

36. HMRC submitted that, viewed realistically, the barn building simply provided additional external space, perhaps for entertainment or use as a studio. It is unrealistic to suggest that the barn building and the pool building were a separate single dwelling. Rather, HMRC submitted that, at completion, the objective observer would have determined that the property as a whole

was suitable for use as a single dwelling, with the barn and pool buildings providing additional space and facilities commensurate with the substantial accommodation offered by the main house. This tends to exclude any view that it might be suitable for use as two dwellings.

37. HMRC further submitted that neither the barn building nor the pool building, alone, offered all the facilities that would make them suitable for independent day-to-day living. Thus, neither the barn building nor the pool building, alone, constituted a separate single dwelling.

DISCUSSION

38. This case is about whether the pool building and barn building, together or separately, were suitable for use as a single dwelling as at completion of the appellant's purchase of the property, and so counted as a second dwelling for MDR purposes (in addition to the main house).

39. I considered whether two buildings (the pool building and the barn building) could be suitable for use as a single dwelling, given that paragraph 7 speaks in the singular of whether "a" building counts as a dwelling, if "it" is suitable for use a single dwelling. Mr Cannon submitted that s6 Interpretation Act 1978 was in point – and so the singular includes the plural – as no contrary intention appeared. I agree: the purpose of paragraph 7 is to count 'dwellings' – the draftsman approached this on a "building by building" basis as this was logical and convenient, but should not, in my view, be read to as to exclude the possibility that two buildings could be used as a single dwelling.

40. This decision follows the recent general guidance given by the Upper Tribunal in *Fiander* as to a building's suitability for use as a dwelling at a given time.

41. The Upper Tribunal's general guidance is that decided cases in completely different contexts are of little assistance in interpreting the statutory words considered here – the building's suitability for use as a single dwelling. I would put *Uratemp* in this category of cases: it considered whether a room actually being occupied was a "dwelling" in the context of a statute designed to protect security of tenure – it thus offers little meaningful assistance as regards suitability for use as a single dwelling, in the context of counting the number of dwellings in a property for SDLT. Similarly, *Carson Contractors* (which is not in any case binding precedent) considered whether a building was a dwelling in the context of VAT zero-rating, and, like *Uratemp*, did not have to consider either suitability for use, or the meaning of single dwelling.

42. I now turn to a multifactorial assessment of whether the pool and barn buildings were suitable for use as a single dwelling as at the time of completion of the appellant's purchase, taking into account relevant facts and circumstances.

43. In assessing the position – and following the Upper Tribunal's guidance that potential adaptations or alterations after completion are not relevant to an assessment of suitability for use as at completion – I accord no weight to the possibility that physical features (such as introducing a kitchen sink to one of the buildings, or "filling in" the swimming pool in the pool building) might or could be added later.

44. Some physical attributes of the barn building as at completion point towards its being able to provide the occupant with facilities for basic domestic living needs: it had adequate living space and was physically separate from the other buildings on the property; it was heated and had power outlets and some natural light.

45. The main physical attributes of the pool building as at completion pointing towards its being able to provide an occupant with facilities for basic domestic living needs was that it had a room with a shower and toilet; it was heated; and it had lockable doors.

46. However, a number of the buildings' physical attributes pointed the other way:

(1) The barn building had no toilet, shower or bath facilities. An occupant would have to leave the building, go outside, walk about 12 metres and enter the pool building, in order to use the toilet, take a shower, or otherwise attend to personal hygiene needs involving running water.

(2) The pool building was clearly unsuitable as a general domestic living space: it was mostly occupied by a swimming pool; there was no wall or other barrier between the swimming pool and the open area at one end. Moreover, the presence of the swimming building meant that, viewing the property objectively as at completion, occupants of the main house would want access to the pool building (to use the pool) (I note Mr Lovell's oral evidence that he, personally, was not interested in using the swimming pool – this does not affect this analysis, however, as it assesses the position from an objective perspective).

(3) Neither building had the fixed physical features of a domestic kitchen (see my finding at [14] above):

(a) The Upper Tribunal's guidance is that whether food-preparation facilities are required for basic domestic living needs (and so for a building to be a "dwelling") should be dealt with in an appeal where that issue is material. Its guidance is also that the paragraph 7 test is not "one size fits all": 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.

(b) The absence of kitchen features in either building means that, in order to satisfy the basic domestic living need of eating, an occupant would have to do some or all of the following on an ongoing basis:

(i) eat out;

(ii) eat food prepared outside the buildings and brought in to one of the buildings;

(iii) find ways to work around the absence of kitchen features such as: cooking in the pool building open area with a microwave or plug-in cooker resting on a table; and accessing water from the handbasin in the adjoining shower/toilet room.

(4) The pool and barn buildings had no separate postal address or utilities. However, these are in my view relatively lightweight factors in an assessment of suitability for use as a single dwelling, as they do not directly impinge on the usability of the building for basic domestic living.

47. The core issue is therefore whether the constraints on domestic living for an occupant of the barn and pool buildings described in (1), (2) and (3)(b) of the preceding paragraph, tip the balance in favour of those buildings being unsuitable for use as a single dwelling, because

(i) it is unrealistic to expect occupants to live with these constraints on an ongoing basis; and /or

(ii) only a particular type of occupant would be prepared to live with these constraints on an ongoing basis; occupants generally would not be so prepared (noting the Upper Tribunal's guidance that suitability means suitability for occupants generally, rather than a particular type of occupant).

48. In my view, it is unrealistic to expect an occupant of the pool and barn buildings to live with these constraints on an ongoing basis: in other times and places, a property with an "outdoor" toilet (or other hygiene facilities) may have been considered appropriate or fit for use as a dwelling, but not, in my view, in 21st century Britain; and as regards "making do" without a proper kitchen, in the manner described at [46(3)(b)] above, I note that access to restaurants and take-aways is more limited in rural Essex than in a large city; and preparing, cooking, and washing up regularly in a makeshift manner (as per [46(3)(b)(iii)] above) falls below the objective standard for 'suitability for use'. Alternatively, even if a particular type of occupant would be prepared to live with these constraints on an ongoing basis – say, occupants prepared on an ongoing basis to eat ready-made supermarket meals, and prepared to tolerate going outdoors to attend to personal hygiene needs – that does not alter the position that occupants "generally" would not be so prepared, in my view.

49. These constraints do therefore tip the balance of factors in favour of the pool and barn buildings being unsuitable for use as a single dwelling as at completion of the appellant's purchase; and so those buildings did not constitute a second dwelling in the property, in addition to the main house.

50. The appeal is accordingly dismissed.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

51. 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.

ZACHARY CITRON
TRIBUNAL JUDGE

RELEASE DATE: 16 AUGUST 2021