

Supplementary Public Question

From Jim Tucker:

"I suppose my supplementary question would be to ask what advice you would offer to the residents of KMS who are, as this answer notes the first fracking site in the UK, trying to sell their house and can't. So if they were to accept a reduction in price because of their location, would that be a basis for a request for a reduction in banding? And if it would, to what extent would that then apply to other residents in KMS?"

Answer:

The following answer has been provided direct from the Valuation Office Agency who are responsible for determining domestic property valuation bands for Council Tax purposes:

"The taxpayers in KMS have the right to make a proposal challenging the bands on their property however the circumstance in which we could accept as valid are limited . More information on this can be found on the web site www.gov.uk and search council tax and follow the challenge your band pages.

One of these is *'If you think there has been a material reduction in the value of the property because,,,,, 'substantial physical changes have taken place in the area where you live since the property was first banded, and you believe these have reduced the value of your property.*

What is determined as a physical change and guidance re this is found in our council tax manual [VOA - Part 2: Invalid proposals and invalidity appeals - England 2.2.4](#)

2.2.4 Explanation of 'physical state of a dwellings locality'

The phrase 'physical state of the dwelling's locality' should be taken to imply something fixed and permanent, not something which is transient (i.e. subject to daily or weekly change). Increases in traffic and associated nuisance are not valid grounds, unless the local cause is rooted in some physical change to the fabric of the locality.

The Court of Appeal in [Chilton-Merryweather v Hunt & others 2008](#) confirmed existing VOA understanding of the law. The appeal related to material reduction and the meaning of the words 'physical state' in relation to four validity appeals concerning traffic increase on the M61 and associated nuisance.

There are two elements to consider:

- Has there been a 'change in the physical state'?*
- Is it within 'the dwelling's locality'?*

(the section explains further re the size of a change and locality)

The onus on remains on the taxpayer to prove that the presence of the 'physical change' has impacted on the value of the property had the change existed in 1991."