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Bratt v Jones [2025] EWCA Civ 562: Valuers, Brackets and the Fine Art of Being 'Wrong, But Not Negligent'

Bratt v Jones [2025] EWCA Civ 562

Date: 2 May 2025

Judges: Sir Geoffrey Vos, Master of the Rolls, Lord Justice Jonathan Baker and Lord Justice Snowden

Key Words:

Professional negligence, Valuer liability, Option agreement, Margin of error / Bracket, Comparable valuation, Residual valuation, Abnormals and enhancements, Bolam test, Market value determination, Development land, Duty of care, Judicial review of expert valuation, Standard of care, Permissible range, Legal burden vs evidential burden, Comparables analysis, Misvaluation consequences, Expert evidence, Appeal grounds (bracket, methodology, valuation, comparables).

Summary

The appeal concerned a professional negligence claim against valuer Mr Nigel Lawson Jones, appointed under an option agreement between Mr Rowlan Phillip Bratt and Banner Homes [1]. Mr Bratt contended that a valuation outside the permissible bracket reversed the burden of proof [1, 3, 4].

HHJ Cawson KC dismissed the claim despite acknowledging an error in Mr Jones's residual valuation, as the £4,075,000 figure fell within 14.15% of the court's determined "correct" value of £4,746,860, inside the 10–15% bracket [2, 16, 22-25, 30].

The Court of Appeal dismissed the appeal on all four grounds [5, 90], holding that negligence must be proven by the claimant according to Bolam [5, 46, 57], that bracket size is a fact question [41, 62-65], and that the judge's findings on enhancements, abnormals, and comparables were sound [53-54, 56-57].

Case Law/ Authorities:

1. Foundational Valuer Negligence / Bracket Doctrine

These cases establish the concept of the permissible bracket and its role in assessing valuer negligence.

1. ***Merivale Moore plc v Strutt & Parker*** [2000] PNLR 498
   Central authority — repeatedly cited to confirm that liability requires both valuation outside the bracket and breach of professional standards (Bolam).
2. ***Capita Alternative Fund Services (Guernsey) v Drivers Jonas*** [2011] EWHC 2336 (Comm)
   Detailed framework of principles applied by the trial judge, derived from multiple earlier authorities.
3. ***Singer & Friedlander v John D Wood & Co*** [1977] 2 EGLR 84
   Early and influential expression of the "valuation bracket" and the notion that valuation is more art than science.
4. ***K/S Lincoln v CB Richard Ellis*** [2010] PNLR 31
   Provides widely cited margin guidance (5%, 10%, 15%) — directly followed by the judge and Court of Appeal.
5. ***Barclays Bank plc v TBS & V Limited*** [2016] EWHC 2948 (QB)
   Cited by the judge for procedural approach; restates Capita and K/S Lincoln principles.
6. ***Titan Europe 2006-3 plc v Colliers International UK plc*** [2015] EWCA Civ 1083; [2016] PNLR 7
   Cited in relation to whether the bracket is a question of law or fact; the Court finds it to be a factual determination.
7. ***Dunfermline BS v CBRE Limited*** [2018] PNLR 13
   Supports a +/-15% margin in cases of residential development land — cited by the judge to justify a broader bracket.
8. ***Goldstein v Levy Gee*** [2003] PNLR 35
   Cited for the "logical fallacy" critique of Merivale Moore — that negligence could be found without liability if valuation was inside the bracket.

2. Standard of Care / Bolam Test

These cases define the professional standard required and its application in valuer negligence.

1. ***Bolam v Friern Hospital Management Committee*** [1957] 1 WLR 582
   The definitive test: whether the professional acted in a manner accepted by a respectable body of their peers.
2. ***Legal & General Mortgage Services v HPC Professional Services*** [1997] PNLR 567
   Cited in Merivale Moore for the view that falling outside the bracket can discharge an evidential burden.
3. ***Zubaida v Hargreaves*** [1995] 1 EGLR 127
   Cited in Merivale Moore to support Bolam's relevance in valuers' negligence claims.

3. Damages, Causation & Scope of Duty

These cases address the limits of a professional's liability — even if negligence is established.

1. ***South Australian Asset Management Corp v York Montague Ltd*** *(SAAMCO)* [1997] AC 191
   Key authority on scope of duty — supports the view that once negligence is found, damages are based on the valuation error, not the bracket's edge.
2. ***Lion Nathan Ltd v CC Bottlers Ltd*** [1996] 1 WLR 1438
   Reinforces SAAMCO — errors in method (not the result) determine negligence; a forecast/valuation can be negligent even if close to the expected outcome.

3. ***Manchester Building Society v Grant Thornton UK LLP*** [2021] UKSC 21; [2022] AC 783
   Confirmed that SAAMCO principles still hold — cited with approval in the Court of Appeal.
4. ***Dennard v PricewaterhouseCoopers LLP*** [2010] EWHC 812 (Ch)
   Discusses damages and loss when valuation falls within bracket — referred to as possibly inconsistent with SAAMCO.
5. ***Jayasena v R*** [1970] AC 618
   Defines "evidential burden" — cited to clarify that even if valuation is outside the bracket, the legal burden of proof remains with the claimant.

4. Supporting / Other Comparables or Margins

Authorities used to support margins in particular factual contexts.

1. ***Craneheath Securities v York Montague*** [1996] 1 EGLR 130
   Cited in Merivale Moore to support that only if a valuation is outside the bracket does the Bolam inquiry arise.
2. ***Corisand Investments Ltd v Druce & Co*** [1978] 2 EGLR 86
   Accepted 15% bracket in hotel valuation.
3. ***Mount Banking Corporation Ltd v Cooper & Co*** [1992] 2 EGLR 142
   Experts agreed on a 17.5% margin — referred to in margin of error discussions.
4. ***Arab Bank Plc v John D Wood Commercial Ltd*** [1998] EGCS 34
   Noted for accepting a 20% bracket — used in discussion on acceptable margins.
5. ***Nykredit Mortgage Bank v Edward Erdman Group Ltd*** [1996] 1 EGLR 123
   Supports using expert evidence to establish the bracket.
6. ***Axa Equity and Law Home Loans Ltd v Goldsack & Freeman*** [1994] 1 EGLR 175
   Authority for adopting a narrow +/-5% margin in standard residential valuations.
7. ***BNP Mortgages v Barton Cook and Sams*** [1996] 1 EGLR 239
   Another 5% bracket case for estate-type residential properties.
8. ***South Australian Asset Management Corp v York Montague Ltd*** [1994] 2 EGLR 103
   (Phillips J, first instance)
   Cited in Merivale Moore as an example of a case where expert evidence helped define the valuation bracket.

Background

Mr Bratt owned land subject to a 2002 option agreement with Banner Homes [6-7]. The price was set at 90% of market value post-planning permission [7]. After permission for 82 dwellings was granted (March 2012), Banner served notice (June 2013), and Mr Jones was appointed as valuer [9-10].

Competing valuations ranged from £8M (Bratt) to £1.766M (Banner) [10]. Mr Jones eventually valued the site at £4,075,000 in April 2016 [11, 19], adjusting for abnormals (£795,000) but not enhancements at the Bloxham Road comparable [13-14]. For the Site, both abnormals and enhancements (£1.87M) were deducted [15-16, 17]. A flawed residual valuation (double-counted enhancements) was later corrected to £4.56M–£4.65M [18], but Mr Jones still preferred his comparables analysis [19]. Banner paid £3.53M (90% of £4.075M) [20]. Mr Bratt sued for negligence [21].

Key Themes:

1. ***Professional Negligence of Valuers:*** *Central to the case [1, 19-22, 26].*

2. ***The "Bracket":*** *Permissible range in which competent valuations can differ [23, 27, 29-30, 37-49, 58-70, 81].*

3. ***The Bolam Test:*** *Negligence requires deviation from respectable professional practice [25, 26, 41-42, 44-46].*

4. ***Bracket & Bolam Relationship:*** *Valuation outside the bracket does not shift legal burden [1, 3-6, 33-35, 41].*

5. ***Determination of "Correct" Value:*** *Based on expert evidence [23, 27-30].*

6. ***Comparable Transactions:*** *Valuation primarily based on Bloxham Road [9-19, 28-29, 35-37].*

7. ***Residual Valuation:*** *Used as a check [10-11, 15-19, 28-29, 66-67].*

8. ***Abnormals & Enhancements:*** *Adjustments applied inconsistently challenged [13-18, 27-29, 31-33, 35-36, 45-54, 71-82].*

Legal Issues and Analysis

Per Capita [23], valuation is inherently subjective, thus the concept of a bracket applies. A figure outside the bracket is necessary but insufficient for liability; Bolam negligence must also be shown [23, 26-27, 43, 48-49, 57]. Bracket size is fact-specific and may exceed 15% in complex or exceptional cases [23, 62-65].

The judge used the approach in Barclays v TBS [27-28], determining a correct value, setting the bracket (10–15%), then checking whether the valuer's figure fell within it. Only if it did not would Bolam analysis follow [30].

Ground 1: The Legal Test for Liability – Mr Bratt argued a valuation outside the bracket should shift the burden [33]. He relied on Merivale Moore, Capita, and Singer & Friedlander [33, 37-40]. However, the Court held that falling outside the bracket is not enough—claimants must also prove Bolam negligence [43-44, 46]. Merivale Moore remains binding authority requiring both limbs [35-36, 48-49, 57]. While the Court acknowledged critiques of this "pre-condition" model (SAAMCO, Lion Nathan) [38, 53-55], it deferred full reconsideration to the Supreme Court [50].

Ground 2: Determination of the Bracket – Mr Bratt argued bracket size is a legal question [27, 41], citing Titan and K/S Lincoln [27, 34, 41, 59]. The Court disagreed: Singer & Friedlander showed bracket size stems from expert evidence and case facts [62-63], as confirmed by Merivale Moore [63-65]. The judge accepted Mr Buckingham's 15% margin based on the site's complexity and judgment calls over abnormals [29, 44-46, 67-69]. Mr Bratt's expert gave no opposing evidence [44-45]. Ground 2 failed [68-70].

Ground 3: Enhancements and Abnormals – Mr Jones applied abnormals to Bloxham Road but not enhancements [13-14, 48-49]. For the Site, he deducted both [15-16]. Mr Bratt argued this created an inconsistency [49]. The judge reduced enhancement deductions by 50% instead of the full amount

[74-75], supported by both experts [75-78]. The Court upheld this [78].

Mr Bratt also argued the abnormals figure for Bloxham (£795k) excluded profit while the Site's did not (£818k/£729k) [17-18, 53-54, 79-80]. The Court found no pleaded claim or conclusive evidence on the profit issue [80-81], and that even if accepted, it wouldn't move the figure outside the bracket [81-82]. Ground 3 dismissed [82].

Ground 4: The Other Possible Comparables – Mr Bratt argued Aynho and Milton Road should have been included in the court's "correct" value calculation [27-28, 36-37, 54]. The judge considered Bloxham the best (if not only) close comparable [84]. Experts provided no analysis adjusting these comparables for relevant differences [84-85, 87]. The Court upheld the judge's decision not to independently conduct such a valuation without evidential support [88-89]. Ground 4 failed.

Conclusion

The Court of Appeal dismissed all four grounds [90], affirming that both a valuation outside the acceptable bracket and a breach of Bolam duty must be shown to establish liability [48-49, 57]. Bracket size is a factual question, and the judge's assessment was well supported [62-64, 69, 78-80, 88]. Since Mr Jones's figure fell within the permissible range, the claim failed [30-31, 90].

Key Takeaway:

Reaffirming Merivale Moore, the court held that a professional negligence claim against a valuer based on the figure alone requires: (1) a valuation outside the permissible bracket, and (2) proof of Bolam-standard negligence [5, 35-36, 43-45, 48-49, 57]. Bracket size is a question of fact, not law [62-63, 69].

Parting Thoughts

And so, like a Bentley nudging a hedge, we arrive at the elegant denouement of Bratt v Jones. The Court of Appeal has again clarified that valuation is neither sorcery nor simple maths. You can't just shout, "Outside the bracket!" and expect an instant finding of negligence.

Mr Bratt's case fell into the familiar trap of equating a numerical deviation with incompetence. But as the Court repeated, valuation is a nuanced, subjective craft—more jazz than geometry. A figure beyond the bracket may be questionable, but unless it's paired with methodical blunder breaching Bolam, it doesn't establish negligence.

The Court firmly dismissed the idea that breaching the bracket shifts any legal burden. The bracket isn't sacred geometry—it's a factual construct derived from comparables, abnormals, and, if one insists, residuals. It flags a possible error, not a presumption of guilt.

No quiet revolution here: the Merivale Moore two-step endures. Claimants must prove both that the valuation falls outside the permissible range and that the valuer breached Bolam-compliant standards. It's a high bar—particularly galling if your land's been undersold—but it reflects the reality that reasonable experts often disagree.

Valuers: unless your methodology would get you barred from the RICS buffet, you're probably fine. Claimants: bring evidence, not outrage—and maybe a spare bracket. You'll need it.

#BrattvJones #EWCA #ProfessionalNegligence #ValuerLiability #PropertyValuation #ValuationBracket #MarginOfError #BolamTest #RealEstateLaw #DevelopmentLand #DDAlegal #LegalUpdate #ConstructionLaw #LegalJudgment

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