THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2010 Rating List appeal; Stables and premises; whether stables adjacent to the main house were domestic or non-domestic property; whether they were an appurtenance belonging to or enjoyed with the house; section 66(1)(b) of Local Government Finance Act 1988; value attributable to 6 stables within the equestrian centre; end allowances; Local Government Finance Act 1988; Appeal allowed in part.

Re: Equestrian Centre at Court Lodge Farm, Sandhurst Road, Bodiam, Robertsbridge, East Sussex TN32 5UJ.

APPEAL NUMBER: 143029861133/537N10

BETWEEN:	The Propane Company Ltd	Appellant
	and	
	Mr A Corkish	Respondent
	(Valuation Officer)	

BEFORE: Mr M Heslop-Mullens (Senior Member)

CLERK: Mrs S Morgan

REMOTE HEARING: Thursday 25 February 2021

PARTIES PRESENT: Mr P Emerick – Appellant's representative

The Honourable Mrs F Sternberg – Company Director

Mr J Corrin – Company Secretary

Miss J Cap – Valuation Officer's representative

Summary of decision

1. The appeal was allowed in part. The appeal property's current assessment was reduced to £19,750 rateable value (RV) with effect from 1 April 2015.

Introduction

2. This appeal has been brought in respect of the following: the matter before the Tribunal is an appeal submitted by CVS on 29 September 2017 against the £20,250 RV for 'stables and premises' at Equestrian Centre, Court Lodge Farm, Sandhurst Road, Bodiam, Robertsbridge, East Sussex (the appeal property).

3. The proposal is made on the grounds that the present rateable value is incorrect and excessive by reason of a Valuation Tribunal decision made on 21 June 2017 in relation to Stables at Bourne Hill House, Kerves Lane, Horsham, West Sussex (appeal number: 382525090009/537N10) where it was accepted that the stables were within the curtilage of the house. The same approach should be applied to the subject property and all, but the equestrian centre should be deleted. The material day is 1 April 2010.

4. The appeal hereditament was originally entered into the 2010 Rating List at £25,000 RV with effect form 1 April 2010, by a list alteration dated 15 October 2013. This figure was reduced by a Valuation Office Report dated 16 July 2016 to £20,250 RV with effect from 1 April 2010.

5. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

6. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated “remote hearings” as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal’s Consolidated Practice Statement has been amended to reflect this.

7. In accordance with the tribunal’s business arrangements, I have been authorised to consider and determine this appeal alone.

8. The Non-Domestic Rating (Alterations of Lists and Appeals) (England) (Amendment) Regulations 2015 limit the effective date in respect of proposals received on or after 1 April 2015 to no earlier than 1 April 2015. The proposal in the present appeal falls within the ambit of these regulations and the effective date of any alteration cannot be earlier than 1 April 2015.

9. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by myself before coming to my decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issues

10. The issues in dispute were as follows:

    1. The unit of assessment. Whether or not the 20 stables and associated equine features are within the curtilage of the Oast House and exempt from rating. This extends to actual use of whether they fall to be domestic or non-domestic.

    2. The value attributable to the 6 indoor stables/loose boxes with the equestrian centre.

3. Whether or not an end allowance of 75% for a planning restriction which limits usage to 17 days per annum with limited horse numbers was appropriate.

Evidence and submissions

11. The subject property is owned by the Sternberg family, through their private farming company, The Propane Company Ltd. The directors of the company are The Honourable Mrs Francesca Sternberg, Miss Jessica Sternberg, Mr James Corrin (Company Secretary) and Mr Stephen Harlow (Consultant Accountant).

12. The Propane Company Ltd is an agricultural company which occupies the farm and the equestrian centre. The centre comprises a large covered indoor area, six temporary stables, an outside arena, and a horse walker. The 20 stables and other equestrian facilities in dispute also currently form part of the equestrian centre. The equestrian centre has been in existence since before 1990.

13. Miss Jessica Sternberg owns the freehold of the Oast House at Court Lodge Farm. The Oast House comprises a five-bedroom detached house with separate garaging, a granny annexe, and a former period barn. In the garden area there is a store and a ‘cloister’ of open bayed former farm buildings which have been converted to an architectural garden feature. The Propane Company Ltd have a right of pre-emption over the freehold interest of the Oast House.

14. The family estate is approximately 3,500 acres in total, of which Court Lodge Farm comprises of around 450 acres, with a further 400 acres connected by the unadopted roadway through the estate. This roadway divides the Oast House from the equestrian centre as well as providing a right of way to third parties associated with other rural activities further along the road.

15. The family have lived at Court Lodge Farm for over 30 years. The current building was developed in 2006. The stables in dispute that are within close proximity to the house were constructed in 1986 and extended in 1993. The equestrian facilities here consist of a hay barn, grooms/mess rooms, store and 20 stables/loose boxes. Mr Emerick contended that these buildings should be exempt from rating as they are within the curtilage of the Oast House.

16. Mr Emerick inspected the subject premises internally on 23 June 2016 and all buildings were measured in accordance with the RICS code of measuring practice. A joint inspection was carried out on 8 May 2017 and Mr Emerick made a further inspection of the subject premises on 8 January 2018.

17. Mr Emerick outlined his supporting legal arguments. He referred to *Methuen-Campbell v Walters* [1979] 1Q8525CA: *Trim v Sturminster RDC* [1938] 2 KB.508 CA: *Martin v Hewitt* [2003] RA225.LT and that these authorities have held that for the land or building to be appurtenance it must lie within the curtilage of the house. Mr Emerick covered the relevant factors which he believed should be considered in light of the Bourne Hill House decision. He expanded on the tests which included the physical layout, ownership, past and present and use or function, past and present.

18. In relation to the physical layout, the equestrian facilities were within close proximity to the house and were not separated in any way. The whole unit had

one access. The stable area was large but not unduly so when compared to the house. With regard to ownership, the areas have been owned by The Propane Company Ltd since around 1988.

19. Looking at the use or function, the facilities were used to accommodate the family's use as private riders. The stables are always used for private purposes. In addition, there are functional links with shared drainage system, the electricity is metered, and the water supply comes from the original farm supply whereas the equestrian centre has its own drainage. The former barn in the garden is used by the family for family gatherings. In essence, Mr Emerick believed that the equestrian facilities were within the curtilage of Oast House and satisfy domestic use, therefore, they should be exempt from rating. Mr Emerick contended that the Valuation Officer had failed to examine these tests.

20. In relation to the final issue, Mr Emerick outlined the use of the equestrian centre, on the opposite side of the road to Oast House, in accordance with its planning permission conditions. Within the conditions of the planning permission it states that the equestrian centre can be used for a maximum of 17 days with a limited amount of horses by third parties for certain events. He contended that the limited use of 17 days was an onerous restriction on the business. For this reason, Mr Emerick adopted a 75% end allowance for the restricted use of the centre. He also referred to the case of Rozel Motor Company which confirmed that planning matters and restrictions are issues that carry weight in rating valuations. Mr Emerick argued that no hypothetical tenant would pay £20,250 for limited business use.

21. Mr Emerick provided comparable properties in support of the tone and end allowances.

> Duckhurst Farm, Clapper Lane, Staplehurst, Tonbridge (£22,000 RV) and Sands Farm House, Warnham, Horsham, West Sussex (£15,500 RV) are both stables with show facilities used throughout the year with no planning restrictions, better riding surfaces with a more extensive use of their indoor areas. They also benefit from viewing galleries.
>
> Stable at Oxlease Farm, Filkins, Lechlade, Gloucester (£3,300 RV) has a 50% end allowance due to part of the site being domestic.
>
> Stables at Bourne Hill House, Kerves Lane, Horsham, West Sussex is where the equestrian facilities were deemed to be domestic. The planning permission restricted activity consistent with the enjoyment of the dwelling.

22. In concluding his submission, Mr Emerick asked Mrs Francesca Sternberg to clarify certain points. During questioning, she confirmed that there was no breeding programme in the United Kingdom. The stables are used for their own competition horses in various stages of their lives. There was no third-party use of the stables, renumeration or sponsorship. All the family ride for the love of the sport. She also confirmed that there were no holiday lets.

23. Reference was made by Mr Emerick to the following authorities:

Methuen-Campbell v Walters (1979) 1QB525 CA,
Trim v Sturminster RDC [1938] 2 KB.508 CA, *Martin v Hewitt (VO)* [2003] RA275.LT

Seabrook v Alexander (VO) – VT Decision 21/01/2014 – Appeal no. 153517450882/538N10,
Levinson (VO) v Robeson and Gray [2008] RA 60
The Collection (Management) Ltd v Jackson (VO) [2013] UKUT 0166 (LC) at [57],
Head (VO) v Tower Hamlets LBC [2005] RA 177,
G Garland Esq, in the case of stables at Ladyswood House, Ladyswood, Sherton, Malmsbury, Wiltshire SN16 0LA, Appeal no. 394025630613/537N10,
Lotus and Delta v Culverwell (VO) [1976] RA 141,
Robinson Bros (Brewers) Ltd v Houghton and Chester-Le-Street Assessment Committee (1938) 28 R&IT 197 & (1937) 26 R&IT 228,
K Shoe Shops Ltd v Hardy (VO) & Westminster City Council (Lands Tribunal) (1980) RA 333 at 353 (Court of Appeal) (1983) RA 26; 3 All ER 609,
Oldschool & Oldschool v Coll (VO) (1995) RA/312/1994
Telereal Trillium v K Hewitt (VO) [2018] EWCA Civ 26,
BPP Holdings Ltd Revenue and Customs Commissioners [2016] 227-245
Galgate Cricket Club v Doyle (VO) [2001] RA 21

24. Mr Emerick believed that the respondent had misdirected itself as to the impact of ownership and that the division of ownership was not an issue. He argued that the Land Registry, with plans or not, does not dictate what property is being transferred. In his view, the plans and photographs show that the stables and other equine facilities in question are within the curtilage of the Oast House. The access is shared. There is a clear distinction between this and the equestrian centre, which is situated on the other side, and divided by a road used by third parties. Many comparisons can be drawn between this case and the Bourne Hill House decision, where the stables were deemed to be domestic and were deleted from the rating list.

25. In his revised valuation of £4,300 RV, Mr Emerick had submitted separate areas and values for the viewing gallery, rug stores and public toilets within his assessment.

26. Miss Cap began by saying that this case illustrated the difficulties and uniqueness regarding the assessment of equine hereditaments and that every case needed to be decided on its own merits. The crux of the matter in this case was whether the 20 stables and the other equine facilities within close proximity to the Oast House were domestic. She contended that none of the stables or other equestrian facilities could be considered as being within the domestic curtilage of the Oast House based on the physical layout and the title plans according to the Land Registry. The Oast House was owned by Miss J Sternberg and all of the equestrian elements were owned by The Propane Company Ltd and, as such, they were not in the same ownership. Miss Cap therefore argued that they cannot be classed as within the curtilage or an appurtenance of the Oast House.

27. Within Miss Cap's submission was the history surrounding this appeal including the planning applications which had been submitted and approved over time. The proposal for this appeal was made as a result of a decision made on the Stables at Bourne Hill House in Horsham where the stables were determined as being domestic use. However, she contended that the situation in this case before the Tribunal differed from that of Bourne Hill House, as there was no division of ownership. The equine facilities were in the same ownership as the dwelling at Bourne Hill House, whereas, in this case, there was differing ownership. Miss J

Sternberg owned the Oast House whilst the remainder of the stabling and all other equestrian elements including the equestrian centre were in the ownership of The Propane Company Ltd. In Miss Cap's opinion, the stables cannot be within the curtilage of the house when it is not in the same ownership.

28. In Miss Cap's submission there was also reference to the definition of domestic and the statutory wording in S.66 (1) (b) of the Local Government Finance Act 1988, which referred to 'other appurtenance'. Generally, other appurtenances would exclude stables and other equestrian facilities located outside the curtilage of a domestic dwelling as not being domestic. Only stables within the curtilage of the house would be considered domestic. It also applied that if the stables were used as part of a business, they would not qualify as domestic. Reference was also made to *Methuen-Campbell v Walters* and *Trim v Sturminster RDC*. In the *Methuen-Campbell* case the issue was whether a paddock that was included in a long lease was part of the premises. The court held that it was not, as it was not an appurtenance. In *Trim v Sturminster RDC* it confined appurtenances to the curtilage of the house. Miss Cap contended that to be an appurtenance the stables would need to be within the same grounds as the house. However, if the ownership of the stables and the house are registered separately, as in the subject appeal, then it cannot be an appurtenance and therefore, the stables and other equine features cannot be domestic.

29. With regard to the valuation of the 6 stable/loose boxes situated within the equestrian centre, Miss Cap believed that the existing price of £250 per stable was reasonable. This was in line with the value placed on each of the other 20 stables within the current assessment. Miss Cap made no comments to any changes to the areas and values applied to the viewing gallery, rug store or public toilets within the non-domestic element.

30. Miss Cap also contended that no allowance should be given for the restrictive use brought about by the planning permission, as within the class of 'stables and loose boxes' a great proportion of buildings have similar restrictions imposed. With regard to the comparable properties referred to by Mr Emerick at Duckhurst Farm and Sands Farm House, these have no end allowances or domestic element affecting their valuations. The stables at Oxlease Farm have a 50% allowance for a fragmented site and the property being part domestic and the stables at Bourne Hill House were determined to be wholly domestic. Miss Cap was of the opinion that the circumstances surrounding these comparable properties did not directly apply to the issues in the appeal case.

31. In concluding her case, Miss Cap believed that the 20 stables/loose boxes and other equine facilities did not fall within the curtilage of the Oast House and therefore they were not domestic. She therefore sought a dismissal of the appeal.

Decision and reasons

32. The first issue raised in this appeal concerned the various elements of the definition of 'domestic property'. The relevant provisions are s.66(1) of the Local Government Finance Act 1988 under which a dwelling was classified as domestic, and attracted council tax under the Local Government Finance Act 1992, if –

> "(a) it is used wholly for the purpose of living accommodation,

(b) it is a yard, garden, outhouse, or other appurtenance belonging to or enjoyed with the property falling within (a) above….

33. The real issue in this case is whether the 20 stables/loose boxes and other equine features within close proximity to the Oast House at Court Lodge Farm were domestic property and therefore not rateable, or whether they were non-domestic property which falls to be rateable.

34. The appellant's representative argued that they were domestic as they fell within paragraph (b) above and were not therefore liable to non-domestic rates and should be deleted from the rating list. The respondent contended that they were non-domestic as they were not in the same ownership as the main house. To be classed as an appurtenance to a dwelling the buildings must be in the same grounds as the house. In this case Miss J Sternberg owned the house whilst the stables were in the ownership of The Propane Company Ltd. The question therefore is whether they fall within sub-section (1)(b) as being an appurtenance belonging to or enjoyed with the house.

35. I considered the term "other appurtenance" and found that the 20 stables/loose boxes and the other equestrian features were not an appurtenance to the house under s66 (1)(b), as they were not mentioned in the title deeds of the Oast House. Miss Jessica Sternberg held the freehold interest of the Oast House whilst the stables and other equestrian features were in the ownership of The Propane Company Ltd, which also included the equestrian centre over the road. It was not disputed that the equestrian centre should remain within the rating list. I therefore find that the stables and other equine facilities associated with the stables, together with the equestrian centre, as all being in the same ownership should remain in the rating list as one hereditament.

36. I am also aware that there is a factual difference between the subject appeal and that of Bourne Hill House in relation to ownership, in that the stables and Bourne Hill House were in the same ownership as the house, which is not the case in this appeal.

37. Having examined the evidence with regard to the 6 stables/indoor loose boxes at the equestrian centre, these had an existing value of £250 per loose box. I accept Mrs Sternberg's description and the photographic evidence which showed that these stables were of a temporary nature as opposed to a permanent construction. I note that the floor area was a soft covering and although within the arena area, there was no actual roof covering to the stabling itself. I therefore determine that the 6 indoor loose boxes were of an inferior nature and therefore I find that the value proposed by the appellant's representative of £200 per stable/loose box to be reasonable.

38. In relation to the end allowance, the appellant's representative had argued that due to the effect of the planning restrictions a 75% end allowance was justified. The appellant's representative had provided his calculation of how he arrived at his adopted end allowance to reflect the disadvantages of the planning restrictions. The respondent contended that no allowance should be given for the restrictive use as within the class of 'stables and loose boxes' a great proportion of buildings have similar restrictions imposed.

39. Having considered the arguments put forward for an end allowance, I find that there was no persuasive evidence that an allowance of this proportion was warranted. The 17 days restricted use allowed the company to use the premises for charitable purposes or international events to include third parties. It did not prevent the area from being used by the company on other days in the year. I noted that the allowances referred to by the appellant's representative within the comparable properties were not for the same set of circumstances as those within the appeal case. Two of the properties did not have end allowances or any domestic element affecting their valuations, whilst another had a 50% allowance for being part domestic. I therefore found that no allowance was justified.

40. In view of the foregoing, whilst I determine that the 20 stables and other equine features associated with these stables should not be deleted from the rating list, I find that the 6 stables/loose boxes within the arena, as part of the equestrian centre, should be reduced from £250 per stable to £200. The rest of the assessment is to remain as previously assessed by the respondent. Therefore, I determine a revised rateable value of £19,750 for the subject premises, allowing the appeal in part.

Order:

41. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list to show a revised assessment of £19,750 RV for the appeal property, with effect from 1 April 2015.

42. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date: Wednesday 24 March 2021

Appeal number: 143029861133/537N10