VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; aparthotel and premises; level of fair maintainable trade in dispute; evidence of actual trade more reliable than estimated; appeal allowed.

Re: 10 The Abbey, 10 Church Street, Wymondham, Norfolk NR18 0PH

APPEAL NUMBER:	CHG100053059	
BETWEEN	Wymondham Abbey Project Ltd	Appellant
	and	
	Mr C Sykes, Valuation Officer	Respondent
PANEL:	Dr J Johnson (Senior Member)	
	Mr D Greensmith	
CLERK:	Mrs L Horne	
REMOTE HEARING:	Monday 19 October 2020	
APPEARANCES:	Ms I Sladden from Wymondham Abbey Project Ltd, the appellant	
	Mr S Bicknell from Brown & Co representing the appellant	
	Mr M Green representing the Valuation Officer	

Summary of decision

1 Appeal allowed. The Rateable Value (RV) of the appeal property is altered from £41,000 to £26,250 with effect from 14 November 2017.

Introduction

2 This was a 2017 rating list appeal. 10 The Abbey, 10 Church Street, Wymondham, Norfolk NR18 0PH, (the ‘appeal property’) had been entered in the 2017 rating list as ‘Aparthotel and premises’, £48,000 RV with effect from 14 November 2017.

3 The challenge proposal was submitted by Mr B Smith on behalf of Wymondham Abbey Project Ltd and was received by the Valuation Officer on 16 October 2018. It had been made on the grounds that "a change made by the Valuation Office on or after 1 April 2017 is wrong." The appellant proposed a revised RV of £15,500 with effect from 1 April 2017 *(the correct effective date is 14 November 2017)*.

4 The Valuation Officer issued a challenge case decision notice on 18 September 2019, which stated that based upon the evidence and information available, the rating list entry would be amended to £41,000 RV with effect from 14 November 2017.

5 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the appeal property was not reasonable. The appeal made by Ms I Sladden from Wymondham Abbey Project Ltd was received on 28 January 2020. Although the registration fee had been received late, a Senior Member of the Tribunal authorised an out of time appeal.

6 The appellant submitted further evidence with the appeal, which comprised recent accounts. The Valuation Officer did not serve a notice of objection in response, and Mr Green confirmed that he did not object to the accounts being presented as part of the proceedings.

7 Mr S Bicknell from Brown & Co had recently been appointed as the appellant's professional representative. He confirmed that he was not instructed under any conditional fee arrangement, and he was aware that he was unable to submit new evidence at this stage.

8 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.

9 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.

10 The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Issue

11 The issue in dispute was the fair maintainable trade (FMT) to be adopted in the valuation of the appeal property.

Evidence and submissions

12 The bundle comprised all of the documents exchanged between the parties as part of the challenge process, and the further evidence of accounts submitted with the appeal to the Tribunal.

13 On behalf of the appellant, Mr Bicknell submitted that the Valuation Officer's adoption of £350,000 for the FMT was unreliable, as it was based on a projection which had been obtained from press reports. He contended that the best evidence was derived from actual trade figures from the appeal property. His proposed valuation of £26,250 RV was based upon actual trade of £232,727 for the period from July 2018 to June 2019, with adjustments made to tone back to the antecedent valuation date (AVD) of 1 April 2015.

14 On behalf of the Valuation Officer, Mr Green explained the history of the valuation of the appeal property. While he did not disagree with Mr Bicknell's use of actual trade, he considered that it was too far removed from the AVD. He sought confirmation of the RV at £41,000 with effect from 14 November 2017.

Decision and reasons

15 When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. The statutory definition of rateable value is set out in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999.

16 A rateable value is defined as an estimate of the annual rent a property might reasonably be expected to let from year to year, assuming that the tenant is responsible for all usual costs, such as repairs and insurance.

17 For properties where rental evidence is not readily available, such as the subject, it is an accepted approach to value using a percentage of gross receipts. Mr Green explained that in respect of the 2017 Revaluation, the Valuation Office Agency has worked closely with trade related organisations in the hotel and self-catering sectors in order to develop schemes of valuation that can be more easily understood by the ratepayer. Self-catering complexes of 5 units and over are valued using a percentage of gross receipts. The actual percentage will be determined by the relativity between the income achieved and the costs incurred in achieving it.

18 In this appeal it is the level of FMT which is in dispute: the Valuation Officer's starting figure is £350,000, whereas Mr Bicknell's starting figure is £232,727.

19 In response to a request from the Valuation Officer at the challenge stage, the appellant provided profit and loss accounts for the period from July 2017 to June 2018. As the aparthotel did not commence trading until 14 November 2017, the accounts did not reflect the letting of the rooms for a full year. The Valuation Officer had annualised 7.5 months of trading to arrive at a figure just exceeding £260,000.

20 The Valuation Officer had chosen to adopt a FMT of £350,000, based upon information obtained from press reports that the property had undergone a significant refurbishment to provide “an upmarket serviced accommodation block that provides guests with self-contained rooms with an on-site concierge to manage the bookings, cleaners and maintenance issues. It also stated that in the 10 months since opening, a gross revenue of £241,980 had been achieved with an average monthly turnover in the region of £30,000, being on schedule to achieve £350,000 turnover in the first year.

21 When reviewing the valuation of the appeal property, the Valuation Officer decided to adopt £350,000 as an estimated FMT for this type and level of business as at the material day of 14 November 2017. In reflecting this back to the AVD, the FMT was revised to £330,000. In consideration of the refurbishment, which was noted to be of good quality, a return at 80% of the range under category D, being 12.42% (of the Valuation Office Agency Rating Manual Practice Note: 2017: Appendix 3: Agreed lodge/ Aparthotel scale), was adopted. Applied to the FMT of £330,000, this resulted in a figure of £40,986, which was rounded for rating list purposes to £41,000 RV.

22 In view of the annualised trade for July 2017 to June 2018 at £260,000, and the subsequent accounts for July 2018 to June 2019 at £232,727, Mr Bicknell argued that the Valuation Officer’s estimated FMT of £350,000 was excessive and unsubstantiated. The panel also considered that the Valuation Officer’s use of an estimated FMT based upon a projection for investment purposes was less reliable than actual trade figures. Although Mr Bicknell’s FMT of £232,727 reflected trade for a period two years after the AVD, the panel found that it was closer to the annualised figure of £260,000, and significantly less than the estimated £350,000.

23 In recognition of the fact that the later accounts were from a few years after the AVD, Mr Bicknell adjusted the FMT to £219,461; the panel considered that this was a reasonable adjustment, and consistent with the Valuation Officer’s adjustment of FMT to the AVD. The panel determined that Mr Bicknell’s percentage applied to the FMT of 12% was also reasonable, and at a similar level to the 12.42% adopted by the Valuation Officer.

24 The panel concluded that the appellant’s representative had demonstrated that at £41,000 RV, the valuation of the appeal property was not reasonable. The panel decided to accept Mr Bicknell’s proposed valuation at £26,250 RV, and therefore the appeal was allowed.

25 The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

26 Under the provisions of paragraphs (4) and (9) of Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Tribunal orders the Valuation Officer to alter the List within two weeks of the date of this order to show a revised Rateable Value of £26,250 with effect from 14 November 2017.

Date: 11 November 2020

Appeal Number: CHG100053059