THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Stables and premises; appeal allowed.

Re: Hill Green Farm Livery Stables, Hemp Lane, Wigginton, Tring, Hertfordshire HP23 6HD

APPEAL NUMBER: CHG100079506

BETWEEN:	Hill Farm Livery Stables	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL: Miss M Dowrick (Senior Member)
Miss E Blois

CLERK: Miss K Hendry IRRV (Tech)

APPEARANCES: Mr C Marriott of Marriott Brown Ltd (expert witness on behalf of the appellant)
Mr D Walker on behalf of the Valuation Officer

REMOTE HEARING on Tuesday 10 November 2020

Summary of decision

1. Appeal allowed. The panel determined the rateable value (RV) of £8,750 with effect from 26 November 2017.

Introduction

2. This appeal has been brought in respect of the following: Hill Green Farm Livery Stables, Hemp Lane, Wigginton, Tring, Hertfordshire HP23 6HD which was entered in the 2017 rating list as “Stables and premises” at £23,250 RV effective from 26 November 2017.

3. The appellant’s challenge proposal to the Valuation Officer was made on 7 March 2019. The Valuation Officer issued a challenge decision on 20 December 2019, which stated that the rating list entry was considered to be reasonable, and therefore there would be no amendment made. The appellant’s appeal to the Valuation Tribunal for England (VTE) was received on 15 April 2020, and made on the grounds that the RV is excessive.

4. 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.

5. 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.

6. As Mr Marriott appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7. Mr Marriott declared that he was not instructed under any conditional fee arrangement. He confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client's case.

8. 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 the panel before coming to its decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Preliminary issues:

9. Mr Walker sought an adjournment of the appeal on the grounds that the respondent representative, Mr Barraclough had a catastrophic laptop failure early on Monday 9 November and had to wait to receive a replacement which would not arrive until after the hearing. Mr Walker considered Mr Barraclough to be the respondent's equine case expert and it would be far from ideal for anyone else to present the case on behalf of the respondent in his place.

10. Mr Marriott objected to the adjournment request on the grounds that it was not necessary for an equine expert to present the case. He stated that the original valuation was carried out by another Valuation Officer and to his knowledge Mr Barraclough had not inspected the property. The main concerns were the impact of the various footpaths, the indoor school use and the storage land.

11. Mr Marriott confirmed he accepted the values of the Valuation Officer in regard to other matters. The only other contentious issue was in regard to the stud relief which he asked the panel if it was possible to issue an interim decision and discuss the matter separately with the Valuation Officer.

12. The case had already been postponed from a hearing in May 2020 due to the Covid-19 pandemic. Given that the appellant is facing hardship, he did not require it necessary to adjourn the case.

13. The panel declined to defer the proceedings as it considered that it was in the interests of justice to proceed with the hearing and avoid any further delay in determining the appeal given that the appellant was suffering from financial hardship.

14. In regards to the interim decision, the panel discussed this further with the parties after coming to the decision that no interim decision would be possible. The parties are in agreement that the issue regarding stud relief could be agreed between them without the need for the Tribunal.

Issue

15. The issues before the panel were the percentage of end allowance to be applied for the footpaths, the valuation of the indoor school and the value applied to the storage land.

Evidence and submissions

16. The appellant's representative, Mr Marriott, had provided the Tribunal with both parties' submissions.

17. Mr Marriott was seeking a revised RV of £9,250 and relied on the following evidence:

    a. The footpath is a serious disability and warrants an allowance of 10% or greater. It is heavily used by pedestrians, often in groups walking dogs, mainly at weekends when this is the most popular time for those using the facilities of the livery yard. It is also used illegally by cyclists. Horses are large unpredictable animals which are easily startled. The resident dogs have to be muzzled. Furthermore the appellant has had to install security cameras to deter thefts. The appellant is having to keep the most valuable agricultural machinery parked by the house.

    b. The indoor school is subject to a planning condition restricting it to use as an agricultural store or the private use of the owner only. Mr Marriott stated that in his opinion, it is probably rateable but as it is outside the curtilage of the house and subject to the planning condition it should be rated separately to the owner and not the tenant. Furthermore, Hill Green Livery is unable to obtain indemnity insurance for this area as it cannot be used for commercial usage.

    c. The value for the storage land is disputed because part of the site comprises the muck heap and its access, a footpath goes straight across.

18. In the Valuation Officer's decision notice, a revised RV of £16,500 had been put forward. To support this revised RV, Mr Walker relied upon the following evidence;

    a. There had been no evidence in the form of comparable properties or case law submitted by Mr Marriott to support an adjustment higher than the 5% already given for the footpaths.

    b. Mr Walker held that the indoor school should definitely be rateable. He commented that he did see the argument of the appellant's representative that the tenant was restricted for use and perhaps it should be rated separately. However, it should remain in the list.

c. Mr Walker contended that insufficient evidence had been put forward by Mr Marriott to support that the value of the storage land is excessive.

Decision and reasons

19. After due consideration of all of the evidence submitted by the parties, the panel determined that the appeal should be allowed.

20. Firstly, the panel had regard to the issue concerning the footpaths and the appropriate level of allowance. Having regard to the photographs and evidence provided by Mr Marriott, the panel considered that a 15% allowance should be adopted. The footpaths were heavily used by pedestrians and cyclists and the appellant was at a disadvantage considering the footpaths fork over the land. As a result, the appellant had to be careful where they stored valuable goods as they were more vulnerable to thieves and had to install security cameras. The panel also agreed the appellant was at a disadvantage due to dog walkers crossing the land which resulted in the resident dogs having to be muzzled and the horses on the land being startled.

21. Secondly, the panel had regard to the indoor school. The panel agreed with Mr Marriott that commercially Hill Farm Livery was not able to use the indoor school due to planning restrictions that use was restricted only to the owner. Therefore it had no value to the appellant. However, given that both parties accepted that this area was outside the curtilage of the house, and it should be rateable to the owner, the panel felt that the indoor school should be shown in the rating list as a separate entry.

22. Finally, the panel considered the value of the storage land and was in agreement to adopt the values put forward by Mr Marriott. The storage land was predominantly used for the muck heap and access. There was no evidence put forward by the respondent to persuade the panel that the representative's values were incorrect.

23. The valuation is revised as follows;

VOA Ref.	Description	Area M^2/ Unit	£ per M^2/Unit	Value
1-3, 6	Loose boxes	19	350	6,650
7	Field shelters	2	250	500
	Outdoor Arena	1,200	1	1,200
	Horse Walker (4 Horses)	4	50	200
	H/Box Caravan Storage	500	1	500
	Shed	7.39	10	74
	06 Store	13.26	15	199
	18 Store	8.96	15	134
	Hay Barn	101.96	5	510
7	07 Tack Room	12.3	15	185
	Lunge Ring	240	1	240
				10,392
LESS	Footpath splitting site		15%	1,558
				8,833
			Say	**£8,750**

24. Accordingly, the appeal has been allowed.

Order

25. 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 £8,750 with effect from 26 November 2017.

Refund of fees

26. 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 (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended).

Date: 20 November 2020

Appeal number: CHG100079506