THE VALUATION TRIBUNAL FOR ENGLAND

*Non-domestic rating; 2017 Rating List appeal; hotel and premises; comparable evidence; rental evidence; fair maintainable trade; appeal dismissed.*

RE: Arinza Hotel, 50 Mansfield Road, Ilford IG1 3BD

APPEAL NUMBER: CHG100082530

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| BETWEEN: | C N Anwar | Appellant |
| | and | |
| | Valuation Officer | Respondent |

PANEL: Mrs N Salh (Senior Member)
Dr PAR Thomson

CLERK: Mrs A Keohane

REMOTE HEARING ON: Wednesday 10 March 2021

APPEARANCES: Mr A Bacon on behalf of the appellant as both advocate and expert witness
Mrs D Thorne on behalf of the respondent as both advocate and expert witness

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**Summary of decision**

1 Appeal dismissed. The appeal property's assessment was reduced to £25,000 RV, with effect from 1 April 2017.

**Introduction**

2 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.

3 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.

4 This is a 2017 rating list appeal. Arinza Hotel, 50 Mansfield Road, Ilford IG1 3BD (the ‘appeal property’), had been entered into the rating list as ‘hotel and premises, at £82,000 RV with effect from 1 April 2017.

5 The challenge proposal was submitted by JMA Chartered Surveyors on behalf of the appellant and was received by the Valuation Officer on 20 March 2019. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised assessment of £25,000 RV was proposed with effect from 1 April 2017 based on a receipts method of valuation.

6 The Valuation Officer issued a challenge case decision notice on 28 August 2020 which stated that based upon the evidence and information available, the rating list entry of £82,000 RV was considered to be unreasonable and would be revised to £60,500 RV with effect from 1 April 2017.

7 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 hereditament is not reasonable. The appeal was received by the Tribunal on 22 December 2020.

8 The appeal property was purchased in 1991 and after a number of uses, works were undertaken and it opened as a hotel in 2012. The property has 22 rooms and although continental breakfast is provided in the rooms, no additional charge is made for this. There are also four car parking spaces with the property. It is situated a short walk from Ilford station and positioned to the rear of Cranbrook Road where a wide range of local amenities are available.

9 There was no dispute between the parties over the number of double bed units (DBU) within the appeal property. This had been accepted as 21.7.

10 Mr Bacon appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Bacon confirmed that he was instructed under a contingency fee arrangement. He declared 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.

11 The expert witness evidence was accepted on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was allowable due to the Tribunal’s rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

12 The ‘expert‘ evidence was considered, and appropriate weight attached.

13 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**

14 The issue in dispute related to the method of valuation for the appeal property. The Valuation Officer maintained that it should be valued on a rental/comparative basis at £2,800 per DBU. Mr Bacon contended for an assessment of £25,000 RV based on a receipts method or alternatively, £32,250 RV based on comparable evidence derived from assessments agreed on a receipts basis.

**Evidence and submissions**

15 The bundle comprised all of the documents exchanged between the parties as part of the challenge process. This included: the challenge document and supporting evidence; the information exchanged between the parties during the challenge process; details of numerous other hotels submitted by Mr Bacon; and the Valuation Officer's challenge case decision notice. A copy of the Upper Tribunal decision in *Arma Hotels Ltd v Andrew Corkish (VO)* [2020] UKUT 0103 (LC) was also provided.

16 Mr Bacon provided settlement evidence prior to the hearing that he had obtained from an appellant with an outstanding hotel appeal; this had been provided to that appellant by Mrs Thorne. The evidence related to hotels in the Hillingdon area where assessments had been settled based on Fair Maintainable Trade (FMT). Although Mrs Thorne expressed concern about the late submission of this information and that it had circumvented the process for the inclusion of new evidence, she did not raise any objection to it being presented.

17 In this appeal and in absence of rental/comparable evidence in the locality, Mr Bacon contended for a revised assessment of £25,000 RV based on 21.7 DBU using the basis of receipts as his preferred methodology. To support this reduced assessment, he provided the following turnover figures, which were shown in tax returns.

| Tax Year | Sales/turnover (£) | Net Profit (3) |
|---|---:|---:|
| 01/04/2012 to 31/03/2013 | 120,000 | 52,688 |
| 01/04/2013 to 31/03/2014 | 60,000 | 26,833 |
| 01/04/2014 to 31/03/2015 | 69,239 | 37,186 |
| 01/04/2015 to 31/03/2016 | 138,079 | 51,661 |
| 01/04/2016 to 31/03/2017 | 257,061 | 49,934 |
| 01/04/2017 to 31/03/2018 | 219,169 | 48,514 |

18 In consideration of the above, Mr Bacon outlined the following:

i. The appeal property was a no service bed and breakfast guest house. In terms of the agreed scheme of valuing hotels, it would fall under category A, lower service provision, budget hotels.

ii. Having regard to the turnover, he had estimated that a reasonable FMT at the AVD would have been £250,000. This level of value had not been contested by the Valuation Officer during the challenge process. This in turn produced £10,000 (Mr Bacon had rounded this down) per DBU.
iii. At £10,000 per DBU and 100% room rate; given the FMT related to accommodation only, percentage ranges to provide the rental bid had been between 9.50% and 12.25%. He had adopted 10%, the lower end of the scale, to reflect that the appeal property was an older converted property and more expensive to run. This produced an assessment of £25,000 RV.
iv. No account had been taken for car parking as only four car parking spaces existed and any income from these was considered to be de minimis when compared to the accommodation turnover.

19 Mr Bacon estimated that the cost of accommodation was approximately £50 per night but higher occupancy only usually occurred from Monday to Thursday as during the week the main occupiers were contractors/workers. The weekend occupancy rate was much lower. He was unable to provide the occupancy rate around the AVD.

20 Mr Bacon argued that the central/inner London hotel scheme, evidence from which had been used to reduce the appeal property's DBU rate from £3,800 to £2,800, was not settled. He considered it was still developing as he was aware of outstanding cases, particularly the Kadimah Carmel Hotel Ltd and Kent Hall Hotel; both of which were within the inner London area and both had appeals awaiting hearing by the Tribunal.

21 The Brent Hotel had been reduced by the Valuation Officer reflective of £2,400 per DBU, also as a consequence of the agreements reached within the central/inner London hotel scheme. It was lower than that applied to the appeal property to reflect its poorer location. However, Mr Bacon stressed that this revised DBU rate had not been accepted and the owner still had a challenge proposal outstanding.

22 Referring to the evidence of settlements, Mr Bacon explained that these related to properties in the outer London area. These were, The Tudor Lodge HA5 2QN, Airlink Hotel, UB3 3NB, 116-118 Church Road, UB3 2LW and 171 Station Road, UB7 7NQ. He did not consider all of the properties within this schedule to be directly comparable to the appeal property, but did note that settlements had been reached in relation to properties with over 20 rooms based on FMT and not on a rental/comparative basis. Out of the four hotels shown, he considered the most comparable physically was 116-118 Church Road, with a rateable value of £30,500 and 18.7 DBU. Based on the outer London settlements and the evidence of Premier Inn, NW9 6LH and Holiday Inn, E4 8ST, he proposed a comparative based assessment of £32,250 RV, based on £1500 per DBU.

23 On behalf of the Valuation Officer, Mrs Thorne contended for the existing rating list entry based on 21.7 DBU at £2,800 per DBU. She argued that the appeal property, with no significant facilities, should be valued in accordance with Section 510 of the Rating Manual section 6 part 3, which set out the basis of valuation should be the rentals/comparable basis. In accordance with the

manual, properties 4* and above and 3* chain hotels were valued using the agreed scale and FMT.

24 Mrs Thorne did not consider the comparable properties referred to by Mr Bacon were comparable to the appeal property as some were larger and had different offers, which affected their valuations. Whilst there had been a few challenges against the appeal property's class of property within the outer London area, having regard to the agreements reached within the central (£4600 per DBU) and inner London (£3800 per DBU) areas it was decided to review the approach to, and levels of value, within the rating list. The review included hotels, hostels and guest houses throughout the entire region as far down as Brighton. All relevant information was examined, including rental evidence and trade information. A conclusion was drawn that the hotels in the outer North London billing authorities, were valued too high. As a consequence, the DBU rate applied to the appeal property was reduced from £3,800 to £2,800. She accepted that this level of value had not been agreed.

25 Of all the properties referred to by Mr Bacon in his submission, The Brent Hotel was the nearest in comparison to the appeal property; given that it was of a similar size and also within the outer London area. The assessment of this hotel had also been reduced, based on £2,400 per DBU, lower than that applied to the appeal property to reflect its poorer position.

26 Addressing the FMT valuation submitted by Mr Bacon, Mrs Thorne considered the guidance and scales within the rating manual were not designed for properties of the appeal property's type and nature. She questioned the accuracy and reliability of the trade information provided by Mr Bacon, especially as it appeared to fall around the AVD.

27 In conclusion, Mrs Thorne could see no reason to deviate from the method of valuation outlined in the Rating Manual for the appeal property. She considered that the revised DBU price was reasonable and reflective of settlements reached for hotels within the central/inner London areas and following a review of assessments in the rating list. Accordingly, she sought confirmation of the appeal property's existing assessment to £60,500 RV, effective from 1 April 2017

**Decision and reasons**

28 In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—
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> (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

(c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

29 In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

30 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, as this is a compiled list appeal, the material day is 1 April 2017.

31 In this appeal, the parties had adopted different methodology in valuing the appeal property. Mrs Thorne had advocated the rental/comparative method of valuation was correct for a hotel of this size and nature in accordance with the provisions of Section 510, whereas, in the absence of actual rent/comparable evidence, Mr Bacon had valued the appeal property on a receipts basis, using turnover provided by the appellant.

32 Mr Bacon had also proposed a comparative based assessment of £32,250 RV, using £1500 per DBU, a figure derived from some of the settlements for outer London properties agreed using FMT. After consideration, the panel decided to place little weight to this evidence as some of the information he had used to come to his assessment as outlined in his email of 18 July 2020, was different to that provided for the same properties in the schedule he had later supplied. It was also noted that some of these properties were substantially larger and had other facilities such as a function room, conference facilities or a bar open to non-residents. Therefore, they were not considered to be directly comparable.

33 Within his challenge proposal Mr Bacon had also referred to several hotels. The panel found that Kadimah Carmel Hotel, E5 9AG and Kent Hall Hotel, N4 2LX were inner London hotels with appeals still outstanding. The Central Park Hotel, N4 2SN was an inner London hotel with 64 rooms and the Pembury Hotel, N4 2AP was also an inner London hotel with 86 rooms. The panel did not consider these to be comparable to the appeal property.

34 Firstly, the panel addressed the rental/comparable method of valuation and accepted that it was usual for a property of the appeal property's type and size to be valued in this way in accordance with Section 510. To confirm the correctness, or otherwise, of an assessment derived from a rental/comparative basis, it was usual for rental evidence or comparable assessment evidence to be available or alternatively some evidence to confirm that a settled tone had been established within a property's area. Mr Bacon indicated that he had been unable to find any such evidence in this appeal. The Valuation Officer had

considered rental/comparable evidence before coming to an agreement for the central/inner London areas and subsequent assessment reviews; however, none of this evidence was before the panel and as a consequence, it was unable to determine whether the revised rate of £2,800 per DBU applied to the appeal property was reasonable or supported.

35 Although Mrs Thorne had indicated that The Brent Hotel, another hotel within the outer London area, had had the DBU rate applied in its assessment reduced to £2,400, also based on the central/inner London agreement, the panel noted that this revised assessment was still under challenge and currently had not been accepted.

36 Given there was a paucity of rental or comparable evidence in this particular case and accepting that the Rating Manual gave guidance only; the panel had regard to the receipts methodology provided by Mr Bacon. Upon consideration of the turnover figures, he had come to a FMT as at the AVD of £250,000. Although Mrs Thorne had queried the level of trade around the AVD, given it appeared low, Mr Bacon had explained that in 2013/2014/2015 the running of the appeal property had been with a contracted-out management company, which had affected income. In 2016/2017 management had been taken back.

37 Having regard to the available evidence, and noting that hotels with over 20 rooms in the outer London area had been valued using receipts as shown in the schedule provided by Mr Bacon, the panel accepted the proposed valuation for the appeal property based on receipts. It considered that the FMT of £250,000 was not shown to be unreasonable, nor was the 10% applied to it to achieve the rental bid. The panel therefore determined a revised assessment of £25,000 RV for the appeal property with effect from 1 April 2017.

## Order

38 As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £25,000 RV with effect from 1 April 2017, within two weeks of the date of this Order.

## Refund of fees

39 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). This will be arranged by the Tribunal administrative office.

**Date:** 8 April 2021

**Appeal Number**: CHG100082530