THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; restaurant; unit price per square metre disputed; rental evidence; rating assessments of comparable properties; appeal allowed in part.

RE: Angels Restaurant, Fleet Street Lane, Ribchester, PR3 3ZA

APPEAL NUMBER: CHG100129188

BETWEEN:	Angels Ventures Ltd	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

PANEL: Mrs T Watson (Chairman and Senior Member)

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.1 on 19 July 2021

APPEARANCES: Mr K Batty (Appellant's representative)
Mr G Willetts (Respondent's representative)

Summary of decision

1. Appeal allowed in part. The rateable value was reduced to £20,000 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 relevant legislation[1]. The VTE may determine the form of any hearing.

3. Therefore, in pursuance of the relevant regulation[2] 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 appeal has been brought in respect of Angels Restaurant, Fleet Street Lane, Ribchester (the "appeal property"), which was currently entered in the 2017 rating list as "restaurant and premises" at rateable value £22,000, effective from 1 April 2017.

5. The challenge process began when the appellant had made a proposal to the respondent on the ground that the entry shown in the rating list on 1 April 2017 was wrong and that it should be reduced to rateable value £17,000.

6. No alteration was made to the rating list by the respondent.

7. In accordance with regulations[3], an appeal was made to the Valuation Tribunal for England (VTE) on the ground that the valuation for the appeal property was not reasonable.

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

Issue

9. The issue in dispute is the price per square metre in the rating valuation. The valuation officer had used £110/m^2 but the appellant wanted it reduced to £90/m^2.

Evidence and submissions

10. The appellant's representative had submitted documentation from both parties in respect of this appeal. It included correspondence exchanged between the parties, the appellant's proposed valuation, rental evidence in relation to the

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[1] 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).
[2] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).
[3] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, regulation 13A.

appeal property and comparable properties, the rating assessments of comparable properties and photographs of the appeal property.

11. Mr Batty, as appellant's representative, appeared in a dual role of advocate and expert witness. He stated that he had inspected the appeal property and was aware that in giving expert evidence his responsibility was to the VTE. Further, he stated that he was not instructed under a conditional fee arrangement or other success related fee.

12. Mr Willetts also appeared in the dual role of advocate and expert witness.

13. The dual role is allowable in VTE proceedings having regard to procedure regulations[4] and rules regarding admissibility of evidence[5]. However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

14. Both parties were able to participate in the hearing, with no significant problems with technical equipment or software. Mr Willets joined using the full video/audio link. Mr Batty joined the hearing by telephone. Each party was given the opportunity to question the other party.

15. After the hearing, Mr Batty sent in a form of return in respect of the appeal property to help clarify the start date of the rent reduction. Mr Willetts confirmed he had no objection to it. I decided to admit the evidence which showed that the rent reduction to £6,000 started on 1 April 2016.

Decision and reasons

16. The appeal property is rurally located 2.25 miles from Ribchester and 2 miles from Longridge. Mr Batty stated that the location is not in the picturesque part of Ribble Valley and that it is quite difficult to find. The property is a former public house that was converted in 2008. It is situated on a sharp right-angle bend on the B6245 Preston Road.

17. I noted both professional representatives appeared in the dual role of advocate and expert witness. However, during questions, Mr Willetts stated that he had never visited or inspected the appeal property. He was relying on the respondent's records which included notes from previous inspections. This reduced the persuasiveness of his expert opinion.

18. While Mr Batty had provided a number of photographs of the appeal property, I had some difficulty in relation to the comparable properties because neither party had provided any photographs, nor a map showing all their locations in relation to the appeal property.

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[4] Regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.
[5] Regulation 17(2)(a) (Evidence and submissions) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

19. Mr Batty informed me that the passing rent on the appeal property is £6,000 per annum on a full repairing and insuring basis. He said it had to be reduced to keep the business going.

20. Mr Willetts referred to several forms of return and the inconsistencies in the rental evidence for the appeal property.

21. Both parties had placed little reliance on the rental evidence. In particular, I noted Mr Batty's proposed valuation was £17,000, which was nearly three times the rent quoted. I therefore gave the rent on the appeal property little weight.

22. Mr Batty's principal evidence was a schedule of comparable properties showing the price per square metre used in their respective rating valuations. They ranged from £65/m^2 to £100/m^2. Mr Batty described the location and key features of his comparable properties, which were located between 1.5 and 19 miles from the appeal property. As mentioned, he had not submitted any photographs in respect of them.

23. I carefully considered Mr Batty's remarks on his comparable properties. He identified four restaurants as the most relevant. I gave greatest weight to the following two comparable properties because they were located within a reasonable distance from the appeal property:

    - 104-106 Higher Road, Longridge. This was only 1.5 miles distant and I noted it had been assessed at £100/m^2. The respondent stated this was a comparable location but slightly more urban. There was also a statement that the respondent believed this property was under-assessed but I found that there was no robust evidence to support that view. Ultimately, I had regard to the assessment as it appeared in the rating list at £100/m^2 and Mr Willets' comment that it was a quality building.

    - Abbots Court, 41 Station Road, Whalley was further away. Mr Batty stated it was 4.5 miles but Mr Willetts said it was 9 miles. I noted it had also been assessed at £100/m^2.

24. Mr Batty had also placed importance on The Plate at Backridge Farm, Twitter Lane, Bashall Eaves, Clitheroe and Punch Bowl Hotel, Longridge Road, Hurst Green, Clitheroe. They were assessed at £70/m^2.

25. I noted that Punch Bowl Hotel had been closed since 2012 and that previous occupiers had had to rely on gimmicks to attract custom. I was less influenced by that comparable property. I did not place much weight to The Plate because it was 8 miles away in converted farm buildings at a craft centre.

26. Mr Willetts stated that the main driver of value was the quality of the location and the quality of the building. There was a location hierarchy for Ribble Valley where Clitheroe was prime, Longridge was second tier and Whalley town centre was third tier. Prominent rural hereditaments were usually

considered to be second tier unless there were additional factors to consider. The quality of the premises was also reflected in terms of the attractiveness of the structure; for example a detached period building was considered better than a 1950 terraced shop; and the grounds of the hereditament were also taken into account together with facilities such as car parking.

27. Mr Willetts' preferred comparable property was Franco's Restaurant, 244 Preston Road, Longridge/Grimsagh at £110/m^2. I noted that it was 2 miles distant from the appeal property in a similar rural setting. The rateable value on this property was less than the rent effective from 1 July 2013. Mr Willetts considered it to be a comparable location. On the other hand, Mr Batty considered it a far superior location on a main road. He also stated that the occupier had traded there for 40 years.

28. I accepted Mr Willetts' point that given the distance of Franco's that it was a good indicator of value, but having regard to Mr Batty's comments I was satisfied that the appeal property's unit price per square metre should be lower than this. Mr Batty informed me that Franco's has significantly more car parking spaces than there is at the appeal property. Having regard to the difference in car parking and Franco's being closer to an urban area, and also noting the sharp bend on the road outside the appeal property, I was satisfied that the appeal property was over assessed at £110/m^2.

29. Mr Willetts also placed reliance on Tiggis Restaurant, Longsight Road, Clayton-le-Dale, Blackburn. This was assessed at £140/m^2. I was not given any good reasons why this property was comparable with the appeal property and gave no weight to it. To be fair to Mr Willetts he acknowledged during questions that Tiggis was in a more prominent location.

30. Overall, having regard to the best three comparable properties, namely 244 Preston Road, 104-106 Higher Road and Abbots Court, I reached the conclusion that £100/m^2 would be a reasonable unit price to adopt for the appeal property.

31. Neither party had provided the existing rating valuation. Therefore, my decision is based on the proposed valuation provided by Mr Batty, amended to £100/m^2. This results in a revised valuation as follows:

Floor	Accommodation	Area (m^2)	Unit price per m^2	Value
Ground	Entrance	6.63	£100	£663
Ground	Lounge/Wait	54.6	£100	£5,460
Ground	Restaurant	39.9	£100	£3,990
Ground	Restaurant	43.7	£100	£4,370
Ground	Int Storage	3.0	£50	£150
Ground	Kitchen	43.9	£70	£3,073
Ground	Int Storage	1.1	£50	£55
Ground	Staff toilets	N/A	£0	£0
Ground	Public toilets	16.5	£50	£825
First	Office	15.5	£49	£760
First	Staff toilets	N/A	£0	£0
First	Kitchen	7.0	£49	£343
First	Int Storage	3.8	£35	£133
First	Int Storage	7.5	£35	£263
			Total	£20,085
			Rateable Value	£20,000

Order

32. 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 respondent to reduce the entry in the rating list to rateable value £20,000 with effect from 1 April 2017.

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

Refund of appeal fee

34. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: 11 August 2021

Appeal number: CHG100129188