THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; hotel; valuation based on fair maintainable trade preferred; lack of information on comparable properties; appeal allowed.

RE: Queens Hotel, 7 Queens Avenue, London N10 3PE

APPEAL NUMBER: CHG100151770

BETWEEN:	M S Natt	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

BEFORE:	Mr A Clark (Vice President)
CLERK:	Mr D Mulgrew
HEARING:	Remote hearing No.5 on 25 January 2022
APPEARANCES:	Mr M Shapcott (Appellant's representative) Mr A Byfield (Respondent's representative)

Summary of decision

1. Appeal allowed. The rating list entry is reduced to £16,000 rateable value (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 relevant legislation[1]. The VTE may determine the form of any hearing.

3. Therefore, in pursuance of the relevant regulations[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. I conducted the hearing of this appeal remotely via a Microsoft Teams conference call using an audio/video-link. There were no technological disruptions to the hearing and I was satisfied both parties were able to fully participate.

5. This appeal has been brought in respect of the following: Queens Hotel, 7 Queens Avenue, London N10 3PE (the “appeal property”). It was initially entered in the 2017 rating list as “hotel and premises”, £68,500 RV effective from 1 April 2017 and was subsequently reduced to £60,500 RV from the same date. The entry was further revised in respect of the property’s address only (but still at £60,500 RV) with effect from 1 April 2019.

6. A proposal challenging the rating list entry was made which sought a reduction to £15,000 RV from 1 April 2017. In response to the proposal, the Valuation Officer (VO) issued a decision notice dated 18 June 2021 to indicate that the proposal was not well founded.

7. In accordance with Regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal to the VTE was made on the grounds that the valuation for the appeal property is not reasonable.

8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that I considered all of the evidence presented 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 RV of the appeal property and the method of valuation to adopt.

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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, regulations 2 and 6(3)(g).

Evidence and submissions

10. The documentation exchanged between the parties had been submitted as evidence. This included the challenge proposal and VO decision notice, along with the House of Lords' judgment in *Dawkins v Ash Brothers and Heaton Ltd* [1969] and a VTE decision in respect of the Arinza Hotel, 50 Mansfield Road, Ilford IG1 3BD issued on 8th April 2021.

11. As a preliminary matter, I considered whether to admit several documents provided by Mr Shapcott close to the hearing date including:

    - Leasehold title register for 2 Queens Avenue;

    - Comparison sheet between the appeal property and 50 Mansfield Road, Ilford; and,

    - An extract from the Valuation Office Agency (VOA) Rating Manual, Section 510: hotels, section 6 part 3: valuation of all property classes.

12. Mr Byfield initially objected to the new evidence but confirmed at the hearing that he was now in agreement that the evidence could be admitted. I therefore allowed the evidence to be included in the proceedings.

13. As there was further agreement, I also allowed valuation scheme descriptions 340826 and 525752 to be provided during the hearing.

14. Shortly after the parties had summed up their respective cases at the very end of the hearing, Mr Byfield emailed evidence in respect of Scale D which he had referred to during the hearing. Mr Shapcott objected to the new evidence. I had been unable to find this on the VOA website as it appeared to be in a restricted area. As the hearing had already concluded, I was not prepared to allow this to be admitted.

Decision and reasons

15. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

16. The parties agreed with regard to most factual aspects of the appeal property including that it comprises some 23 en-suite bedrooms over 4 floors with no lift. On the ground floor there are 4 doubles and 1 single bedroom; on the first floor there are 4 doubles and 4 single bedrooms; the second floor had 5 doubles and 1 single bedroom and the third floor had 4 single bedrooms.

17. They did not agree upon the method of valuation that should be adopted so as to arrive at the correct RV.

18. The VO had adopted a rate per bedroom based upon a rental comparative approach. This produced for the ground and first floors £3,300 per double bedroom, with the single bedrooms at 70% of that at £2,310 per bedroom. For the second floor he had taken 85% of the ground/first floor rate and for the third floor 75% of the ground/first floor rate. The VO calculated the appeal property to have an adjusted double bed unit (DBU) of 18.45.

19. By contrast, the Appellant's representative had looked at fair maintainable trade (FMT) (the method employed for the 2010 rating list) by reference to actual turnover figures either side of the AVD. This, in his opinion, gave a FMT figure of £150,000 to which he had applied 10% so as to arrive at his proposed RV of £15,000.

20. I noted that the 2010 rating list entry for the appeal property had been £18,000 RV (based on 15% of £120,000 turnover).

21. The Appellant is the freehold occupier of the appeal property so there was no rental evidence in respect of it. The Appellant had been in occupation since before 1990.

22. The appeal property had been valued under scheme 525752, but Mr Shapcott believed scheme 340826 was more appropriate because it specifically referred to Haringey in which the appeal property was located. Mr Shapcott considered Haringey to be in Outer London. However, Mr Byfield considered the appeal property to be on the fringe of Inner London.

23. The trade in respect of the appeal property was provided as follows:

Year ending	Turnover
31 March 2013	£130,350
31 March 2014	£150,602
31 March 2015	£159,310
31 March 2016	£161,357

24. I noted that audited accounts were also provided and Mr Byfield had not questioned them.

25. Mr Shapcott's proposed RV was derived from taking an average (£150,000) of the trade figures for the 4 years shown above. He had taken 10% of the FMT as properties where all of the income was from the rooms, like the appeal property, fell within the range of 9% to 11.75%. This was based on the DBU rate in table A "hotels - lower service provision budget/lodge (with bar/restaurant facilities) or equivalent quality" from the VOA Rating Manual: section 6 part 3, Section 510: Hotels: Practice Note: 2017 for guidance on application of scales.

26. Mr Byfield did not consider this scale to be appropriate arguing that it related to hotels such as Ibis, Travelodge and Premier Inn.

27. During the hearing Mr Shapcott said that he was prepared to accept an FMT of £160,000. He had averaged the turnover for the year ending 31 March 2015 and 31 March 2016. Mr Shapcott's adjusted RV was therefore £16,000 (10% of £160,000).

28. Mr Shapcott referred to the VTE decision in respect of 50 Mansfield Road, Ilford; *Anwar v Valuation Officer* [VTE, CHG10082530, 10 March 2021]. This concerned the Arinza Hotel which the VTE had reduced from £82,000 RV to £25,000 RV from 1 April 2017. He drew a comparison between this property and the appeal property. The panel in that appeal had based the RV on 10% of FMT.

29. Mr Byfield had considered the trade on 2 comparable properties on Queens Avenue in an attempt to establish the trade of a reasonably efficient operator (REO). In comparison with those other hotels, he did not consider the trade at the appeal property to be that of an REO. He suggested that the trade at the appeal property could be lower because of a lifestyle choice of the occupier, whom might be happy to occupy the property with a low room occupancy rate.

30. The VO had devised three categories of hotel:

    (a) Category A, where 100% of bedrooms are en-suite and the building had at least one passenger lift to all floors.

    (b) Category B, where between 50% and 100% of bedrooms were en-suite with or without a lift to all floors. In this category a hotel could have 100% of its rooms en-suite but with no lift, or less than 100% of the rooms en-suite but with a lift.

    (c) Category C applied to hotels with less than 50% of the bedrooms en-suite with the assumption that the building had no lift.

31. All 23 letting rooms at the appeal property are fully en-suite but the building had no lift. The VO had placed it in category B. The 23 letting rooms had been adjusted to 18.45 DBU.

32. The trade at 2 Queens Avenue was provided. This was also category B and had an adjusted DBU of 16.6. It had substantially higher trade than enjoyed at the appeal property. All of the trade was from accommodation receipts. It had an 82% occupancy rate. I noted that there was a £216,059 difference in trade on 2 Queens Avenue between the years ended 2015 and 2016. Mr Byfield assumed this to be because of refurbishment in 2015.

33. Number 17 - 19 Queens Avenue was in category C. It had an adjusted DBU of 26.25 and also had substantially higher trade than the appeal property. Again, all of the trade was from accommodation receipts.

34. Mr Byfield had assessed the FMT trade of the appeal property at £400,000. He had used a multiplier of 16.08% which he said was mid-way in the range for Scale D; 14.5% to 17.25%.

35. There was rental evidence in respect of 2 Queens Avenue. It was rented in January 2010 on a 25-year lease and then assigned in 2013. The rent at that time was £62,000 per annum. The VO had adjusted the rent to remove the value of 6 car parking spaces to arrive at £55,200. From this the VO calculated a DBU rate of £3,300 which when applied to the appeal property (18.45 DBU) resulted in £60,500 RV (rounded down).

36. Mr Shapcott said that 17-19 Queen Avenue was currently the subject of a challenge with a VO decision pending. He also said that 2 Queens Avenue had had a check. Mr Byfield could find no record of the check made in respect of 2 Queens Avenue.

37. I have concerns over the VO's reliance on 2 and 17-19 Queens Avenue. While I recognise they were located close to the appeal property and therefore relevant as comparable evidence, I had a lot of apprehension because Mr Byfield had not seen any of the properties. Further, in the case of 2 Queens Avenue, he had assumed a refurbishment had taken place to explain a huge jump in trade. I asked if the significant increase in trade on 2 Queens Avenue was because it had been refurbished to a better level of quality. Mr Byfield did not know. Other than a location plan, I received no other evidence to show that those other properties were comparable with the appeal property. There were unanswered questions in terms of the differences in quality between the hotels and it was not known why the trade differed so much. I found that this was a main shortcoming with the VO's case which made his evidence less persuasive. If comparable evidence is to be relied on then the valuer should have a good knowledge of those comparable properties as well as the appeal property.

38. Ultimately, I noted that there were audited accounts in respect of the appeal property, which had not been challenged. I found them to be relevant. There was also a VTE decision in respect of 50 Mansfield Road where 10% of FMT had been taken to arrive at the RV. I have therefore decided to adopt Mr Shapcott's valuation at £160,000 FMT at 10%. This results in £16,000 RV.

39. The appeal is therefore allowed.

Order

40. 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 VO to reduce the entry in the rating list to £16,000 RV with effect from 1 April 2017.

41. Under regulation 38(9), the VO must comply with this order within 2 weeks of the date of its making.

Refund of appeal fee

42. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately 6 weeks to process.

Date: 15 February 2022

Appeal number: CHG100151770