VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; racing stables and premises; whether property should be shown as more than one assessment; two separate businesses; appeal allowed.

RE: Caroline Bailey Racing Stables, Holdenby North Lodge, Teeton, Northampton, NN6 8LG

APPEAL NUMBER: CHG100523808

BETWEEN:	Caroline Bailey Racing	Appellant
	and	
	Joanne Moore	Respondent
	(Valuation Officer)	

PANEL: Ms C Edwards (Chairman)

Mr FJ Rogers

CLERK: Ms N Shepherd IRRV (Hons)

SITTING ON; Wednesday 26 April 2023

APPEARANCES: Christopher Marriott from Marriott Brown (Appellant's representative)

Rebecca Anderson (Valuation Officer's representative)

Summary of Decision

1. Appeal allowed. The appeal property's assessment was reduced to £12,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 rating list, by way of a proposal that she served on the Valuation Officer (VO) on 1 December 2020. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was partially well founded and reduced the existing assessment of £24,500 RV to £19,000 RV. A decision notice to that effect was served on the appellant on 7 June 2022. Subsequently, the appellant's representative then appealed the VO's decision to the tribunal on 6 April 2022, on the grounds that the current valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The appeal hereditament comprises of two stable yards, located in the village of Teeton, to the north of Holdenby in Northamptonshire. The equestrian facilities include 31 loose boxes, a turn out pen, grass gallops, all weather gallops, outdoor horse walker, two stores and two tack rooms. It was situated within the site of a working farm, Holdenby North Lodge.

4. Holdenby North Lodge was held under an agricultural lease by the brother of the appellant, which he ran as a working farm. Within this agricultural lease dated 21 February 1994, consent was given to operate a point-to-point yard and a racing yard. The racing stables were run and managed by the appellant and the point-to-point yard and stables run and managed by the appellant's husband.

5. As Mr Marriott appeared on behalf of the appellant as both advocate and expert witness and in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), he confirmed that he was aware that in giving his evidence his duty was to the Tribunal and that he would comply with this as well as the requirements of his professional body. Furthermore, he confirmed that he was not instructed under a conditional fee arrangement or any other success related fee.

6. This hearing was held remotely via Microsoft Teams.

7. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

8. The issue in dispute was whether the appeal property should be split into two separate assessments.

9. The appellant also disputed the price adopted for five of the loose boxes and proposed a 5% allowance for the location be adopted to reflect the shared access with Holdenby North Lodge farm.

Evidence and submissions

10. The evidence before the panel comprised all of the information and documents which had been disclosed and exchanged as part of the challenge process.

Decision and reasons

11. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

12. Mr Marriott contended that two separate businesses were operating from the site; the racing stables run by the appellant and the point-to-point yard run by the appellant's husband. As such both should have a separate valuation. Mr Marriott explained that the racing stables were licensed under the British Horseracing Authority (BHA) for training racehorses. The point-to-point stables were a separate business for training point-to-point horses. As it was unlicensed, under BHA regulations the appellant was unable to utilise it for her business. Furthermore, the two stables were physically separated.

13. The respondent did not dispute that two businesses were operating from the appeal dwelling. However, in order for there to be separate valuations for rating purposes, it has to be established that there are two hereditaments which Ms Anderson contended was not the case with the subject appeal.

14. The definition of a hereditament is referred to in section 64 of the Local Government Finance Act, as anything which by virtue of the definition of hereditament in section 115(!) of the General Rate Act 1967 would have been a hereditament for the purposes of that Act:

> "property which is or may be liable to a rate, being a unit of such property which is, or would fall to be shown as a separate item in the Valuation List."

15. Establishing the hereditament is inextricably linked with rateable occupation. The leading case of *Laing & Sons v Kingswood Assessment Committee* [1949] identified four necessary ingredients for rateable occupation:

> "First there must be actual occupation; secondly, that it must be exclusive for the particular purposes of the possessor; thirdly, that the possession must be of some value of benefit to the possessor; and four, possession must be for not too transient a period."

16. If any of the four essential ingredients are missing than the occupier cannot be in rateable occupation.

17. Ms Anderson submitted that whilst there were two stables operating from the site, both were connected to one another and therefore not sufficiently exclusive enough to warrant a separate hereditament. She referred to the fact that a website was shared for both the stables, as were utilities such as electricity and even gallops and some food and bedding for the horses. As such, the overlap of these facilities suggested one occupation, with the appellant being in paramount control.

18. Mr Marriott contended that the appellant could not be in paramount control as the point-to-point yard was unlicensed. Therefore, in accordance with BHA regulations she was prohibited from using it. As a result, the appellant's husband had exclusive occupation, meaning it was a separate hereditament.

19. Mr Mariott made reference to a number of comparables which he considered supported his contention that two separate assessments existed. The panel found the evidence pertaining to Stockhill Green to be useful. Stockhill Green was similar to the appeal dwelling in that it had been a single assessment which was then split as the one of the stables was run by a licenced trainer, and the other by his wife who was unlicenced. As with the appeal property facilities such as utilities, and gallops were shared.

20. The respondent contended that although there were similarities between Stockhill Green and the appeal property, the businesses operating from Stockhill Green were limited companies and as such were separate legal entities. At the appeal property both the appellant and her husband were operating as sole traders rather than as separate limited companies.

21. Ms Anderson referred to a previous Tribunal decision of *Holly Tree Farm v Valuation Officer* in support of the contention that the two stables were a single assessment. She submitted that this case aligned closely with the subject case, in that it was found a single hereditament existed despite two businesses operating from the site. The panel noted that in this case both stables were unlicensed, therefore neither business were prohibited from occupying the other stables.

22. The panel considered the evidence of both parties. Whilst it found similarities with the Holly Tree Farm case cited by Ms Anderson, ultimately it found the subject case to align most closely with Stockhill Green. Although it appreciated the businesses in this case were limited companies as opposed to being sole traders as with the subject case, it considered that in both instances they were separate businesses. Having regard to this it found there was no difference between Stockhill Green and the subject case.

23. Having regard to the evidence provided by both parties the panel ultimately found the appellant did not have paramount control over the whole site, due to being prohibited from using the point-to-point stables. As such, it determined that two separate hereditaments existed at the site and as such there should be two separate assessments for valuation purposes.

24. The panel then addressed the valuation adopted for the loose boxes and whether a 5% allowance should be granted for the location of the stables. Mr Marriott contended that five of the seventeen loose boxes at the racing stables were dark and unattractive, with two being merely metal gates at the gable ends of an open fronted barn.

25. The panel studied the photographs provided which showed the difference between the traditional looseboxes and those the appellant was seeking a lower assessment for. The panel found that the difference between the two was noticeable. Therefore, the panel considered that the value of £450 proposed by Mr Marriot for the five loose boxes to be reasonable. It also found the 5% allowance proposed to be reasonable, as it reflected that the appeal property was situated on a site where farming machinery and implements were also located.

26. In view of the foregoing the panel determined that the appeal property should be split into two separate assessments and the proposed RV of £12,000 for Caroline Bailey Racing was reasonable. The appeal was therefore allowed.

Order

27. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to alter the list entry for the appeal property to £12,000 RV with effect from 1 April 2017. The Valuation Officer must comply with this Order within 2 weeks of its making.

Date: 27 May 2023

Appeal number: CHG100523808

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.