THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; self-catering holiday cottage; valued by single bed space; level of value; comparable properties; appeal dismissed.

Re: Dashel Cottage at Ashton Farm, Countisbury, Lynton, Devon, EX35 6BL

APPEAL NUMBER: CHG100529589

BETWEEN: Messrs Ben Halliday Appellants

and

Mr D Virk Respondent

(Valuation Officer)

PANEL: Mr R White (Senior Member)

Mrs F Higgin

CLERK: Mrs A Sloan

REMOTE HEARING: 10 June 2021

PARTIES PRESENT: Ms M Egan (Appellant)

Mr B Halliday (Appellant)

Ms N Egan (Appellant's sister)

Mr E Doran – Valuation Officer's representative

Summary of decision

1. The appeal was dismissed. The panel made no change to the appeal property's existing assessment of £4,000 rateable value (RV), effective from 31 July 2020.

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. The hearing was conducted via Microsoft Teams and the panel was satisfied that all parties were fully able to participate in the hearing.

4. The appeal was brought in respect of Dashel Cottage (the subject property). The subject property is a new self-catering holiday cottage, converted from a former farm building, that sleeps up to six guests between three bedrooms. It is located in a rural part of North Devon and operated by the Appellants alongside other rentals on the farm.

5. This is a 2017 Rating List appeal. The original entry for the assessment was based on £850 per single bed space (SBS) but, following the initial check stage, the Respondent had revised the valuation down to £667 per SBS. The proposal was submitted by the Appellants on 16 December 2020, against the 2017 RV assessment of £4,000. The challenge decision notice was dated 9 February 2021.

6. 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 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

7. The Appellants contended that the SBS rate adopted for the subject property was excessive. They sought a reduction to £510 per SBS in line with the assessment for other rentals on the farm, known as Yenworthy Farm. The Valuation Officer (VO) contended that, based on comparable single assessments in the locality, £667 per SBS was reasonable.

Evidence and submissions

8. The evidence bundle provided to the panel comprised all of the documents exchanged between the parties as part of the challenge process. An earlier application by the Appellants to admit new evidence not previously disclosed at challenge stage was refused by a Senior Member of the Tribunal as the information was available to the Appellants prior to making this appeal. Therefore, the panel considered the evidence exchanged during the challenge process to determine whether the VO's decision not to alter the current valuation of £4,000 was correct.

9. The Appellants explained that the subject property is of similar structure and standard of build to other recent conversions on the farm. They are all furnished in the same way and the specification is similar. They stressed that these are not usual holiday lets as they are located on a working farm. They accepted that the subject property is located some distance from the other rentals but explained that the farm is spread out over many miles and has been in the same configuration and under the same family ownership since the 1830s. In their opinion, the best comparable property on which to value the subject property was that of Yenworthy, which is operated as part of the same business and is located on the same farm. They disagreed with the VO's comparable properties and highlighted that many of them are located in coastal areas, which differs from the surroundings of the subject property in a moorland and woodland landscape. The Appellants also pointed out that the VO's comparable properties were assumed not to be part of a working farm and the owners may not have to pay VAT on their earnings in the same way as the Appellants.

10. Mr Doran, for the VO, explained that the Appellant’s other rentals at Yenworthy were a different type of assessment. Yenworthy has been assessed as a hereditament containing multiple self-catering units and incorporates a total of 22 SBS overall. As the subject property is located 1.6 miles away, on the opposite side of the A39 road, the two assessments could not be considered one. The clerk asked the Appellants if they understood why the two assessments could not be merged into one hereditament and offered to provide all parties with a copy of the judgment in *Woolway v Mazars* [2015] UKSC 53 which sets out requirements for the properties to be contiguous to be assessed as one. The Appellants confirmed that they understood this concept but still considered Yenworthy to be the best comparable property and sought a reduction in RV for the subject property to £3,055, based on the same rate of £510 per SBS applied at Yenworthy.

11. Mr Doran stated that Dashel Cottage had been assessed on the valuation scheme for self-catering single units and complexes up to four units. He explained that the values of SBS should be derived from analysis of full accounts and comparing properties of a similar type. In his submission, Mr Doran referred to the judgment *Facciolo v Costantin* [2020] UTLC RA/30/2019 which dealt with the valuation of self-catering accommodation on the basis of receipts and expenditure. He explained that, in order to value by receipts and expenditure, he would require at least three years of full accounts for Dashel Cottage. As the subject property has only come into use from July 2020, full accounts were not available for this property alone. Therefore, the VO had valued the subject property by reference to other six bed self-catering units in the locality. Mr Doran provided a schedule of 10 other six bed units which had all been valued on the basis of £667 per SBS and asked the panel to confirm the existing entry in the rating list.

Decision and reasons

12. In deciding this appeal, the panel was bound by the governing legislation. The term ‘rateable value’ is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> *“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 –*
>
> *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”.*

13. The antecedent valuation date (AVD) for all 2017 list rating appeals is 1 April 2015. As Dashel Cottage is owned by the Appellants and is let to tenants on a short-term basis rather than an annual basis, there was no annual rent passing on the subject property to provide an indication of value.

14. The panel noted the Appellants' position that they operated both Dashel Cottage and Yenworthy as part of the same business and the operating costs were similar for both. However, the panel found that as Yenworthy had been valued under a different scheme, with allowances for quantum reflecting the differences in operating multiple units, it was not directly comparable to the single unit at Dashel Cottage. Mr Doran acknowledged the Appellants' statement that another barn adjacent to Dashel Cottage will be converted to self-catering lets in the future and he accepted that it may be possible to value the subject property along with that property as a multiple assessment in due course.

15. As the subject property is newly converted, it was not possible for the Appellants to provide sufficient full accounts for a valuation on a receipts and expenditure basis to be considered. The panel noted the Appellants comments regarding the need to diversify the farm to survive, the local employment provided and the fact that VAT must be paid by them and potentially not by the owners of the comparable properties used by the VO. However, the panel was conscious that the issue before it was to determine the rent that Dashel Cottage might hypothetically achieve if it were let on the open market on a yearly basis as self-catering holiday accommodation. The valuation was of the subject property rather than the Appellants' business. The panel therefore concluded that it must disregard issues such as payment of VAT affecting the profitability of the letting and asses the likely value of the subject property in a hypothetical open market transaction.

16. Having decided that the multiple assessment at Yenworthy was not comparable to Dashel Cottage, the panel considered the comparable single units presented by the VO. It acknowledged that some of the properties appear to be more coastal based, but others appeared to be located inland. Mr Doran was not able to confirm whether any of the properties he had presented were located on diversified farms similar to the subject property but he stated that they were all six bed single units and had been valued at the same rate of £667 per SBS as the subject property. He explained that self-catering units are valued using identifiers to rank the quality of the location and property. Mr Doran stated that the comparable properties he had referred to were all categorised with the same level of quality for location and accommodation as the subject property. Although he acknowledged his comparable properties covered a wide range of locations, Mr Doran stated that they illustrated a tone in the valuation list for similar single units of self-catering accommodation.

17. Under questioning from the Appellants and the panel, Mr Doran explained that the Respondent holds financial details on the comparable properties from Forms of Return, but he was unable to disclose sensitive trading data on other properties in this appeal. He considered that the records held on these similar holiday lets supported the SBS price applied for them and he considered this a useful indication of value for the subject property.

18. After considering all of the evidence presented by the parties, the panel concluded that the best evidence was that of comparable single unit six bed properties. There was little evidence presented that the SBS rate used on the VO's examples was borne out by receipts and expenditure evidence, but the panel acknowledged that there appeared to be a consistent tone in the valuation list on such assessments. The Appellants sought to rely on the assessment for Yenworthy, but the panel considered this multiple unit hereditament was not a useful comparison with the single unit subject property.

19. Whilst the panel noted the Appellants' comment on the differences in location and business model for the VO's comparable properties, it found they were useful evidence of broadly similar self-catering holiday lets that had been valued as single units with six beds. Having

considered both parties' evidence, the panel determined that the assessment for Dashel Cottage should not be reduced. The price per SBS that had been applied to other similar self-catering single units on the same valuation scheme supported the level of value adopted of £667 per SBS for the subject property. The Appellants had not presented any alternative comparable six bed single units for consideration.

20. In appeals of this nature the burden of proof rested on the Appellants to prove their case for a reduction. In this case, the panel concluded that the Appellants had failed to produce sufficient evidence to justify their claim for a reduction in the level of value. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated, the existing valuation was reasonable and the appeal was dismissed.

Date: 21 June 2021
Appeal number: CHG100529589