VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal: Local Government Finance Act 1988; Corkish (VO) v Bigwood (2019) UKUT 0191 (LC); appeal allowed in part.

APPEAL NUMBER: CHG101202515

RE: Blackborough End Equestrian Centre, The Stables, East Winch Road, Kings Lynn, PE32 1SF (the "appeal property")

BETWEEN: Blackborough End Equestrian Centre LLP — Appellant

and

Joanne Moore (Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 11 February 2025

BEFORE: Miss AC Griffiths, Presiding Senior Member
Mr D Greensmith, Senior Member

CLERK: Mrs D Davies

APPEARANCES: Mr Oli Plumley, of Ryan Property Tax Services Ltd, appellant's representative, as advocate and expert witness
Mr Tawanda Manyadza, respondent's representative as advocate
Ms Amy Pratt, respondent's representative as expert witness of fact

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The appeal property's assessment was reduced from £18,250 Rateable Value (RV) to £18,000 RV, with effect from 1 April 2023.

Introduction

3. This is a 2023 rating list appeal. Blackborough End Equestrian Centre, The Stables, Eat Winch Road, Blackborough End, Kings Lynn had been entered in the 2023 list as livery stables and premises from 1 April 2023, at an RV of £18,250. The appellant was seeking a reduction in the RV to £9,200, contending that the assessment was excessive.

4. The appellant submitted the challenge on 3 April 2024. The valuation officer determined the challenge to be not well-founded and issued a decision notice to that effect on 30 July 2024. That decision was appealed to this Tribunal on 12 September 2024 under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009, the grounds being that the current valuation for the hereditament was not reasonable.

5. The appellant is seeking a reduction in the rateable value of the property, stating that parts which should be considered domestic have been incorrectly classed as non-domestic and should be removed from the assessment.

6. Mr Plumley was appearing on behalf of the appellant as advocate and expert witness. He confirmed that his company was employed on a contingency fee basis. All representatives declared that they understood and fully accepted that their duty was to the Tribunal in giving evidence and that they would comply with this as well as the requirements of the professional body, regardless of whether or not the evidence supported the client's case.

7. The panel accepted the expert witness evidence on the above basis: the appeal was not considered complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations. The panel determined that it was appropriate to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

8. This statement of reasons is not and does not purport to be a verbatim record of the proceedings.

<u>Background</u>

9. The appeal property is a livery stables and premises. The appellant is arguing that parts which should be considered domestic are included in the assessment and should be removed.

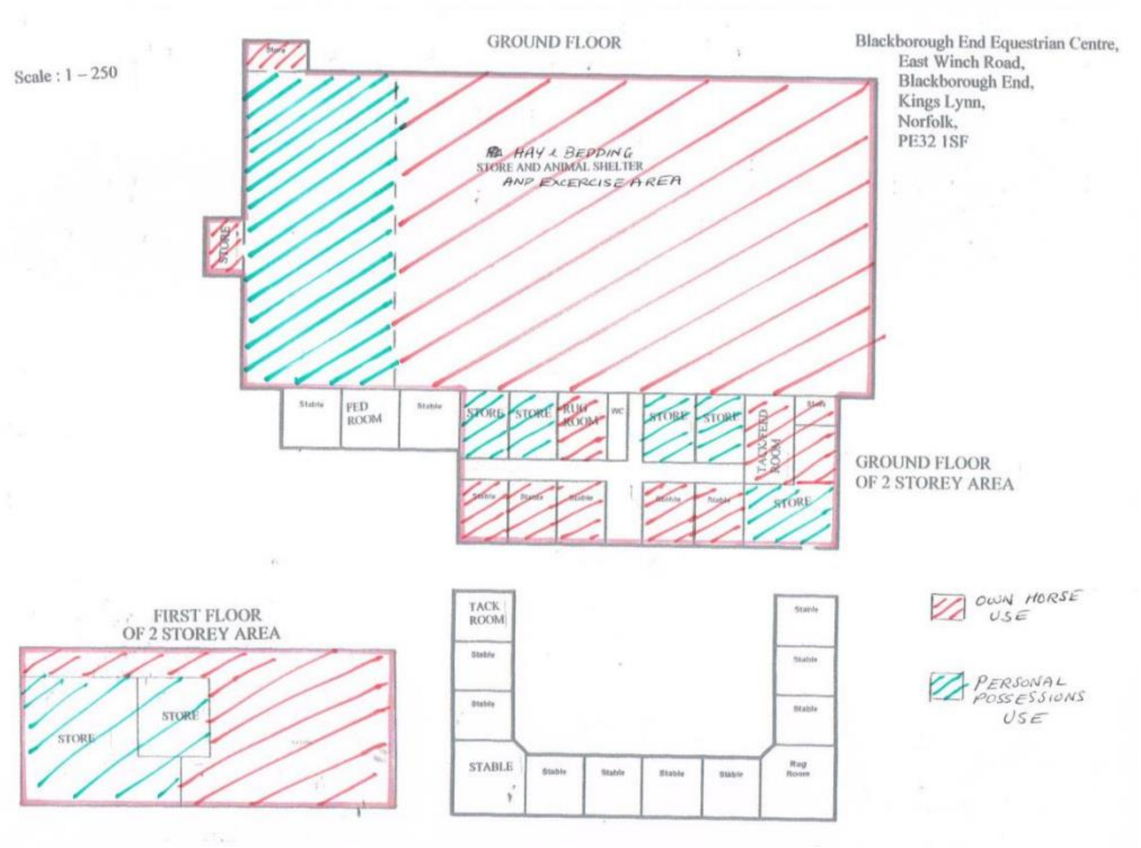
10. "Retrospective change of use to buildings to private use to house own horses and personal belongings" was granted on 24 November 2022. Specified parts were prohibited from use for 'business or commercial purposes'.

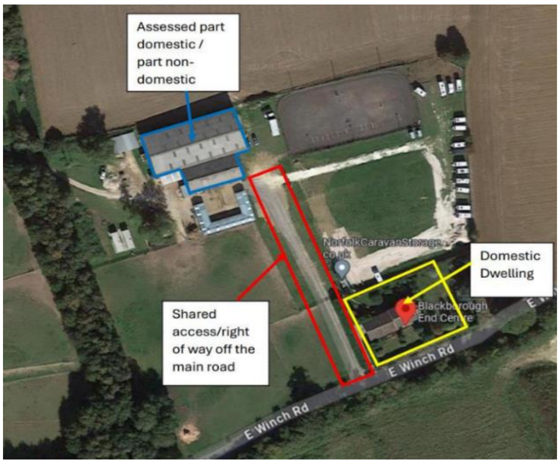
11. The parties dispute the curtilage of the domestic dwelling.

12. The evidence before the panel comprised of the information disclosed and exchanged during the challenge process. The submissions included photographs of the appeal property, plans, the parties' skeleton arguments, copies of the current and the proposed valuations and references to relevant caselaw, including:

    (a) *Corkish (VO) v Bigwood* (2019) UKUT 0191 (LC)
    (b) *Rozel Motor Company Ltd v Clark (Valuation Officer)* [1983] RA 70
    (c) *The Propane Company Ltd v Dawn Bunyan (VO)* [2022] UKUT 0237 (LC)

13. The plan below was provided to assist the panel. There is no disagreement about the parts without shading; these form part of the assessment for the appeal property. The areas shaded in green, used for storage of personal / domestic items, do not form part of the assessment. The red shaded areas are in dispute. The appellant is arguing that the planning permission restricts these areas to domestic use, but the valuation officer contends that the definition of domestic property is not met, stating that the parts used for the appellant's own horses do not fall within the curtilage of the domestic dwelling.





14. The buildings depicted above are outlined in blue on the aerial photograph. The yellow line denotes the domestic dwelling. The shared access is outlined in red. To the left of that is grazing land, exempt as agricultural land. The areas immediately behind the house are non-domestic and not disputed.

Preliminary issue

14. Both parties had provided additional documents in the days leading up to the hearing. These were additional photographs and plans, copies of previously decided cases and a revised valuation from each party. There were no objections from either party and the panel determined that the hearing should proceed with all the evidence before it.

Relevant Law

15. The term ‘rateable value’ was defined in Schedule 6 to the Local Government Finance Act 1988 (“the Act”) (as amended). The rateable value of non-domestic property 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 an appeal against an entry in the 2023 Rating List, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832). This common date was used to ensure that every property was treated in a consistent way. For this appeal, the material day is 1 April 2023.

16. Section 42 of the Act requires that a local non-domestic rating list must show each hereditament which fulfils various conditions including being “a relevant non-domestic hereditament”. Section 64(8): A hereditament is non-domestic if either-

    (a) it consists entirely of property which is not domestic, or
    (b) it is a composite hereditament.

    (9) A hereditament is composite if part only of it consists of domestic property.

17. Section 66(1) of the Act provides that property is domestic if –

    (a) it is used wholly for the purposes of living accommodation,
    (b) it is a yard, garden, outhouse or other appurtenance belonging to or enjoyed with property falling within paragraph (a) above,
    (c) it is a private garage which either has a floor area of 25 square metres or less or is used wholly or mainly for the accommodation of a private vehicle, or
    (d) it is private storage premises used wholly or mainly for the storage of articles of domestic use.

Discussion

18. The panel considered the effect of the planning permission, and in particular paragraph 2:

    > “the use of the building hereby approved shall only be used for the domestic storage within the areas identified in blue and for the keeping and exercising of the applicants own horses and storage of associated equestrian equipment within the areas identified in red on the Ground Floor, Ground Floor of 2 Storey Area, First Floor of 2 Storey Area Plan…. and shall at no time be used for business or commercial purpose”.

19. Comparing the paragraph above to the aerial photograph the panel understood that the ‘areas identified in blue’ effectively meant the whole plot, and the ‘areas identified in red’ referred to the building outlined in blue.

20. The panel knew that the planning conditions in place on the material day must be taken account of but understood that planning law and rating law were not necessarily complementary. Ms Pratt for the valuation officer contended that the planning permission did not specify that exercising of the appellant’s own horses constituted domestic use, pointing out that the permission was for ‘domestic storage…and the keeping and exercising of the

applicant's own horses'. She invited the appellant's representative to contradict her view, but he was unable to do so.

21. The panel acknowledged that 'non-domestic' did not mean 'commercial'; if a part of a building was assessed as non-domestic because it did not meet the definition of 'domestic' it did not necessarily follow that the area in question was being used for business purposes.

22. The valuation officer had considered the definition of domestic dwelling as provided in Section 66 of the Act and determined that, in terms of the red shaded areas, the definition was not met. As horses are not 'articles of domestic use' the stables would need to fall within the curtilage of the house in order to fit the definition of domestic property. It did not consider the disputed areas to be outhouses or appurtenances.

23. Both parties referred to the Upper Tribunal judgment in *Corkish (VO) v Bigwood* (2019) UKUT 0191 (LC). The appellant's representative noted that the Upper Tribunal had considered that the stables and equestrian facilities were appurtenances and should not therefore be considered non-domestic. The valuation officer contended that there were physical differences between the appeal properties in Bigwood and the instant appeal; she noted that the curtilage of the domestic property is clearly defined by hedge and a gate, unlike in Bigwood where (para 62), "No fence or other barrier separates the equestrian buildings from the house, and together with the barn and groom's accommodation they all are all grouped around the lawn. They are not divided from each other by the trees which grow between them and the visual impression we formed was rather that the whole group is enclosed within a wider boundary of trees….".

24. Mr Plumley stated that there was a shared access drive and common services across the domestic and non-domestic parts. He contended that these factors bestowed contiguity. He argued that the hedge did not define the curtilage of the domestic dwelling, noting the boundary and fencing around the property as a whole. The panel considered the photographs provided compelling evidence that the curtilage of the domestic dwelling was marked by the hedge boundary and the separate entry. It noted that immediately behind and to the left of the domestic dwelling were non-domestic parts that were not disputed. Ms Pratt stated that the domestic curtilage could not be extended where it was intersected by other non-domestic elements.

25. Mr Plumley said that the domestic dwelling could be shown to extend further than the house because of the parts used for domestic storage. The panel was not persuaded by this argument, noting that areas used for domestic storage met the definition of domestic property and were excluded from the non-domestic assessment on that basis.

26. Satisfied that the disputed parts were not domestic, the panel considered the valuation. The respondent's expert witness had referred the panel to the findings in Ludgate. She explained that, in valuing composite properties, the actual pattern of use was disregarded; what was considered instead was how the hypothetical tenant might best use and consolidate the space within the building.

27. The appellant's representative had identified the caravans as over-assessed in the current valuation, having increased to £1000 each in the 2023 list. The valuation officer had submitted a revised valuation, valuing the caravans at £10/m^2, £247 each. The panel noted that the parties' latest assessments were similar in terms of values used; the difference lay in what parts of the building were included.

Disposal

28. In view of the above findings and conclusions, the Tribunal panel determined that the valuation officer's revised valuation, shown below, should be adopted for the appeal property.

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ m^2/unit**	**Value £**
1.1	Ground	Indoor Box (Block) Personal	5.00	400.00	2,000
1.2	Ground	Outdoor Loosebox (Block)	3.00	400.00	1,200
1.3	Ground	Outdoor Loosebox (Timber)	3.00	400.00	1,200
1.4	Ground	Outdoor Loosebox (Timber)	2.00	400.00	800
1.5	Ground	Outdoor Loosebox (Timber)	4.00	400.00	1,600
1.6	Ground	Larger Stable Used As Rug Room	1.00	440.00	440
1.7	Ground	Larger Stable	1.00	440.00	440
1.8	Ground	Indoor Loosebox (Notional)	2.00	400.00	800
1.9	Ground	Indoor Loosebox (Notional)	2.00	400.00	800
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION					
		Floodlit Outdoor Arena	1800.00	1.55	2,790
		Indoor Arena	716.25	6.00	4,298
		Caravans	24.65	10.00	247
		Caravans	24.65	10.00	247
		Container (Reflected)	14.88	0.00	0
		Container (Reflected)	14.52	0.00	0
		Field Shelter	40.74	5.00	204
		Shed (Reflected)	9.50	0.00	0
		Shop (Notional)	42.64	25.00	1,066
		Spectator (Domestic)	297.68	0.00	0
		Tractor / Hay (Reflected)	91.02	0.00	0
		Store (Reflected)	12.69	0.00	0
		Store (Reflected)	8.86	0.00	0
		Tack Room (Reflected)	17.11	0.00	0
		Tack Room (Reflected)	9.98	0.00	0
		Toilet Block (7)	5.28	0.00	0
		VALUATION SUB-TOTAL			**18,132**
				SAY	**18,000**

Order

29. As a consequence of the above decision, the Tribunal Panel orders the Valuation Officer to reduce the 2023 Rating List entry to £18,000 RV, with effect from 1 April 2023, within two weeks of the date of this Order.

30. 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 (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Date issued to parties: 28 February 2025

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.