

UPPER TRIBUNAL (LANDS CHAMBER)



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TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RATING – VALUATION – 2017 list - single self-catering holiday unit – assessment of number of single bed spaces – receipts and expenditure valuation – evidence base for fair maintainable trade and disputed expenditure items – analysis of Tribunal decisions on 2010 list – relevance of unchallenged comparable evidence from 2017 list – appeal allowed – Rateable Value reduced from £2,750 to £920

IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE VALUATION
TRIBUNAL FOR ENGLAND

BETWEEN:

FRANCIS J FACCILOLO

Appellant

and

**DARIO COSTANTIN
(VALUATION OFFICER)**

Respondent

**Re: High Smarber,
Low Row,
Richmond,
North Yorkshire,
DL11 6PX**

Mrs D Martin MRICS FAAV

Determination on written representations

The following cases are referred to in this decision:

Hughes (VO) v York Museums and Gallery Trust [2017] UKUT 200 (LC)

Dennett v Crisp (VO) [2013] UKUT 35 (LC)

Calver v Thomas [2013] UKUT 482 (LC)

Redrose Ltd v Thomas (VO) [2014] UKUT 311 (LC)

Beaconside and Jones v Gidman (VO) [2016] UKUT 497 (LC)

Wishart v Hulse (VO) [2018] UKUT 224 (LC)

Introduction

1. This is an appeal by the ratepayer, Mr Francis Facciolo, against a decision of the Valuation Tribunal for England (“VTE”) dated 22 May 2019 concerning the rateable value (“RV”) in the 2017 list of a self-catering holiday unit and premises known as High Smarber, Low Row, Richmond, North Yorkshire DL11 6PX.
2. The Valuation Officer (“VO”) managing the case as advocate was Ms Mandy Franklin MRICS Dip Rating. An expert report was provided by Mr Dario Costantin BSc (Hons), PG Dip Surveying, MRICS, a VO who specialises in the rating of self-catering holiday property and is the named Respondent for this case.
3. The appeal was dealt with under the written representation procedure, by agreement of the parties, given that Mr Facciolo lives in the USA. It was agreed that Mr Facciolo would have an opportunity to respond to the VO’s submissions and expert report. I am pleased to note that this has served to narrow the issues.

Background

4. Higher Smarber is a three-bedroom detached stone cottage with attached open fronted garage. Also attached are a small storage barn and shed, both of which are kept locked by the owner. The cottage sits in a remote and elevated position a mile above the small village of Low Row, near Reeth in Swaledale. It is accessed by a winding single-track road, which has a metalled surface for the first half mile, becoming a part-concreted track for the last half mile. This is a private access road shared by two other properties.
5. The hereditament has been rated as a ‘self-catering holiday unit and premises’ since 1990. It was entered into the 2010 list at an RV of £1,725 and not appealed. It was initially entered into the 2017 list at £3,350. On 16 November 2017 a ‘check’ was received by the VO, who confirmed that the property was listed with five single bed spaces (“SBS”). Mr Facciolo has not disputed this classification, but the Request For Information (“RFI”) form does confirm that the property has three double bedrooms. Two of the bedrooms are twin rooms, one of which can only be accessed through the other, which may be the reason for classification as five SBS but this is not discussed by either of the parties. I will return to this matter later as subsequent VO evidence has been prepared on the basis of six SBS. No change was made to the rating list following the check.
6. Following a ‘challenge’ on 3 April 2018 by Mr Facciolo, the VO issued a decision notice on 24 September 2018 and amended the list to show a revised RV of £2,750 based on £550 per bed space for five SBS. This was a reduction on the previous rate of £675 per SBS, as a result of reclassifying the property location from Category 2 to Category 3, as described in Practice note: 2017 – holiday accommodation (self catering) (“Practice note 2017”) within the Valuation Office Agency (“VOA”) Rating Manual, section 6, part 3, section 480.
7. On 22 March 2019 Mr Facciolo submitted an appeal to the VTE on the grounds that the valuation was not reasonable and proposed an RV of £1,000. The appeal was considered

on 8 May, without a hearing, by a senior member of the VTE. In a decision notice dated 22 May 2019 the appeal was dismissed for lack of evidence that “..either the VO’s categories were wrong or that price per bed space was too high.”

8. Mr Facciolo has appealed the VTE’s decision.

Legislation

9. The issue to be determined is the correct RV for the property at the material day, which for the 2017 compiled list is 1 April 2017. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841) the antecedent valuation date (“AVD”) for the 2017 list is 1 April 2015. RV is to be determined in accordance with section 56 and Schedule 6 of the Local Government Finance Act 1988.
10. In summary, the RV of the hereditament is represented by the rent at which it is estimated it might reasonably be expected to let from year to year, at the valuation date of 1 April 2015, on the assumption that it is in a state of reasonable repair and that the notional tenant will be responsible for maintaining it in that state. The context is the physical state of the property and the locality on 1 April 2017. I understand that there were no relevant changes to be accounted for between the two dates.

History of the disputed figures and issues

11. In his statement of case, Mr Facciolo challenged the VO’s use of a ‘tone of the list’ methodology and particularly the lack of information available to a ratepayer to understand how the figures were arrived at. He submitted that, given the lack of open market rental evidence of single unit self-catering properties, the preferred methodology for assessing the rental value of a single self-catering unit should be the receipts and expenditure (“R & E”) method as set out in the VOA Rating Manual Section 4, Part 2. Mr Facciolo referred to annual losses suffered for the property in the three years prior to the valuation date, and modest profits in subsequent years of less than £1,000. He therefore proposed an RV figure of £1,000, without any supporting calculations.
12. The VO’s statement of case provided a list of nine single unit self-catering properties in and around Low Row, showing the 2017 RV, the number of SBS and the rate per SBS, whilst noting that all were ‘subject to review’. They would be used as comparable evidence based on available accounting information. He proposed to revise his opinion of the RV of High Smarber down to £2,500 on the basis that one of the bedrooms can only be accessed through another. His calculation was based on four SBS at £625. The VO offered to carry out an R & E valuation of the property if provided with full accounts information. He gave notice that he might refer to five decisions of this Tribunal relating to self-catering holiday units in other parts of the country, admitting that all related to complexes rather than a single unit.
13. On 10 September 2019 Mr Facciolo made a full reply to the VO’s statement of case, making the point that most of the required accounts information had already been supplied through the original RFI and further recent email exchanges. He commented that six of the

nine comparable properties sit beside a main road, and all but one are much more accessible than High Smarber. Further it was impossible for a ratepayer to comment on the evidence without access to the financial information on which the assessments were based. He pointed out, without prejudice to his own view of RV, that the VO had previously (in 2018) adjusted the rate per SBS down to £550, which would give an RV of £2,200 for a four SBS unit. Mr Facciolo accepted the relevance of the five Tribunal decisions in that they all adopted the R & E method in assessing RV. He referred to the further Tribunal decision in *Hughes (VO) v York Museums and Gallery Trust* [2017] UKUT 200 (LC) and quoted “ ..the fact that the receipts and expenditure method suggests a nominal or nil rateable value is not a reason for rejecting its use...”. Finally, Mr Facciolo provided, as his Exhibit 10 (“Exhibit 10”), a structured breakdown of receipts and expenditure for the years ending 5 April 2013, 2014 and 2015.

14. Mr Costantin produced a very full expert report with 22 appendices, dated 7 February 2020, and Ms Franklin provided advocacy notes dated 5 February 2020, both concluding that the correct RV with effect from 1 April 2017 should be £2,100 based on R & E methodology. Mr Facciolo’s detailed reply to the two documents has helpfully distilled the remaining disputed matters to five specified items. These are: the appropriate level of receipts to reflect fair maintainable trade (“FMT”) at the valuation date; the appropriateness of comparing expense figures from Tribunal cases relating to the 2010 rating list; the appropriate level of expenses for cleaning; the appropriate level of expenses for repairs; inclusion of a sum for miscellaneous expenditure.

The agreed matters

15. The R & E method was adopted by Mr Costantin, based on Mr Facciolo’s accounts supplied in Exhibit 10, which were agreed as a definitive source. Details of Mr Facciolo’s private use of High Smarber during the three years prior to the valuation date had been provided by Mr Facciolo in August 2019, alongside typical tariffs for those weeks supplied by his lettings agency. Some of those weeks were in winter months, when lettings would be unlikely, so Mr Costantin confined his upward adjustment of the actual receipts in Exhibit 10 to the years 2012-13 (three spring/summer weeks in 2012 adding £1,185) and 2014-15 (three summer weeks in 2014 adding £1,601). No private use was made during summer weeks in 2013-14 so no adjustment was made to the receipts for that year. Mr Facciolo agreed the adjustments and so the agreed adjusted receipts for the years ending 5 April 2013, 2014 and 2015 are £11,749, £11,840 and £14,397 respectively.
16. In producing his R & E valuation Mr Costantin adopted expenditure figures for energy, kerosene, insurance, supplies, membership and postage from the accounts for 2014-15 in Exhibit 10. For advertising he adopted a figure of £200, reflecting levels for 2012-13 and 2013-14 rather than the much higher figure of £473 in 2014-15. Mr Facciolo has accepted the figure of £200.
17. For commission charges incurred with the lettings agency it was necessary to adjust the actual figure upwards for the additional charges related to notional lettings during periods of private use. Mr Costantin focused on 2015 lettings and adjustments, taking commission at 25% gross of VAT and, having analysed that in the 2012 and 2014 seasons an average

of 76% of bookings were through the agency, added £304 for a notional commission on 76% of £1,601. Thus Mr Costantin's figure for commission was £2,672 (£2,368 actual plus £304 notional) and Mr Facciolo accepted this figure. However, the figure is based on adjusted receipts for the 2014-15 accounts only, which Mr Costantin contends reflect FMT. Mr Facciolo challenges the use of only the 2014-15 receipts as FMT and so I regard the agreement of this item as contingent on FMT and will return to it later.

18. Annual depreciation figures (for non-rateable assets such as furniture) are shown in Exhibit 10 as £850, £870 and £2,026 respectively for the three years ending 2013, 2014 and 2015. For this item of expenditure Mr Costantin prefers not to use the 2015 figure. He analyses in great detail the calculation of depreciation in five Tribunal decisions which relate to the 2010 list and therefore a valuation date of 1 April 2008. Mr Costantin concludes that an appropriate depreciation figure for High Smarber is £850, based on actual figures for 2013 and 2014, which he views as £141 per bed space assuming, erroneously, that there are six SBS. He compares this rate per bed space with the range of outcomes from Tribunal decisions on the 2010 list, and is content to see that it sits at the bottom of the range. Mr Facciolo has accepted Mr Costantin's proposed figure of £850 and this is logical on the basis of accounts preceding the valuation date.

The remaining disputed matters

19. Of the five disputed matters listed by Mr Facciolo, four are specified items within his own accounts. The table below shows the respective figures proposed for the R & E valuation by each party and, where the figures are disputed, the source used in each case. The fifth matter in dispute is the use of Tribunal decisions on the 2010 list to arrive at figures for the 2017 list, which will be addressed under relevant headings. I will also return to the subject of the appropriate figure for commission.

Receipts	App	(Source)	Resp	(Source)	Difference
	£11,733		£12,796		£1,063
Adj for private use	£929		£1,601		£672
FMT after adjustment	£12,662	3 yr avg	£14,397	2015 fig	£1,735
Expenses					
Energy	£1,168		£1,168		
Cleaning	£2,036	2015 fig	£1,439	Decisions	-\$597
Kerosene for boiler	£1,826		£1,826		
Insurance	£565		£565		
Advertising	£200		£200		
Repairs	£1,450	3 yr avg	£750	Decisions	-\$700
Supplies	£575		£575		
Commission	£2,672		£2,672		
Membership	£75		£75		
Postage	£25		£25		
Miscellaneous	£100		0	Oversight	-\$100
	£10,692		£9,295		-\$1,397
Depreciation	£850		£850		
TOTAL EXPENSES	£11,542		£10,145		-\$1,397
NET PROFIT	£1,120		£4,252		£3,132
50% as rent	£560		£2,126		£1,566
PROPOSED RV	£1,000		£2,100		

FMT after adjustment for private use

20. The agreed adjusted receipts for the years ending 5 April 2013, 2014 and 2015 are £11,749, £11,840 and £14,397 respectively. The reason for a higher level of receipts in 2014-15 is not apparent from any of the submissions. Mr Costantin considers the best evidence is that closest to the valuation date and adopts the 2015 figure of £14,397.

21. Mr Costantin compares the unadjusted receipts for High Smarber with those from his list of nine local comparable self-catering units, which range from six SBS down to two SBS. The receipts figures for these properties were supplied to the Tribunal and to Mr Facciolo on a confidential basis, so they are not reviewed here by property name. His preferred three comparable units include one six SBS unit and two four SBS units, with figures for receipts and private weeks summarised in the table below. Although Mr Facciolo comments in his reply that the receipts shown for High Smarber are different in being the adjusted ones, this is not the case. They are taken directly from Mr Facciolo's agreed Exhibit 10.

Property	SBS	2012-13 receipts	Private weeks	2013-14 receipts	Private weeks	2014-15 receipts	Private weeks	Average receipts	Average per SBS
High Smarber	5	£10,564	3	£11,840	2	£12,796	5	£11,733	£2,347
Comp 1	6	£14,657	3	£14,570	6	£11,539	3	£13,589	£2,265
Comp 2	4	£11,202	5	£9,493	5	£12,940		£11,212	£2,803
Comp 3	4	£9,145	4	£12,137	4			£10,641	£2,660

22. Mr Costantin asserts that receipts for comparable 1, the six SBS property, support his proposed FMT (i.e. adjusted for private use) for High Smarber, at £14,397 or £2,399 per SBS for six SBS. This latter analysis overlooks the fact that High Smarber was agreed at five SBS, which alters the rate per SBS to £2,879. He asserts further that the evidence for the four SBS units supports receipts of around £12,500 or £3,125 per SBS. However, without evidence of the adjusted receipts for the comparable units neither of these assertions is helpful.
23. Looking for further assistance from the comparable evidence, I note that only the receipts for High Smarber show a pattern of growth over the three year period. The comparable properties show variations across the period which do not appear to be related to the number of private weeks in any year. There is some evidence of a relationship between the average receipts over three years and number of SBS, with higher figures per SBS achieved for smaller properties. However the lack of information for comparable 3 in 2014-15 makes this less conclusive. Overall, I do not attribute significant weight to the figures provided and Mr Costantin's analysis of them.
24. I return to the statutory hypothetical tenant considering at the valuation date what rental value can reasonably be attributed to the property for operation as a self-catering holiday unit. On the assumption that such a tenant would have access to any historic R & E data, it is unlikely that they would consider only the most recent year of receipts, particularly where the level is, without explanation, considerably higher than for the previous two years. To do so would be to disregard the risk of future downward variation, a fact of business which is evidenced by the comparable properties above. Whilst averaging may not always be an appropriate approach to solving valuation problems, it smooths unexplained variations in figures to produce a compromise position such as might be expected to be arrived at by two parties negotiating a new letting. I accept Mr Facciolo's proposition that the average of the last three years' receipts is a more accurate reflection of the approach which negotiating parties would take to establishing FMT, which I therefore determine to be £12,662.

Cleaning costs

25. The actual cleaning costs incurred by Mr Facciolo over the three years 2012-13 to 2014-15 were £2,255, £1,727 and £2,036 respectively. He proposes in his R & E assessment that the most recent figure should be used. He explains that the expenditure reflects time spent by the housekeeper on cleaning and providing '...standby (services) to deal with any issues that may arise day to day'.

26. Mr Costantin states in his report that he was accompanied by the housekeeper when he inspected the property in January 2019 and that she told him it took three to four hours to clean and prepare the cottage, in addition to dealing with other issues. Mr Facciolo states that the rate of pay from 2013 to 2015 was £10 per hour, so in 2014-15 this reflects 203 hours of work, equivalent to 3.9 hours per week for 52 weeks, or more hours for fewer weeks. This appears to be a generous amount of time overall, but I accept Mr Facciolo's explanation that the good hourly rate was necessary to attract cleaning help in an area populated mainly by hill farmers and retirees.
27. Mr Facciolo divides the cost of £2,036 by six SBS to demonstrate a cost of £339 per SBS. If there are only five SBS at High Smarber the figure would be £407 per SBS.
28. In his report, Mr Costantin reviews elements of the five Tribunal decisions in *Dennett v Crisp (VO)* [2013] UKUT 35 (LC), *Calver v Thomas* [2013] UKUT 482 (LC), *Redrose Ltd v Thomas (VO)* [2014] UKUT 311 (LC), *Beaconside and Jones v Gidman (VO)* [2016] UKUT 497 (LC) (two properties known as Beaconside and Stowford Lodge) and *Wishart v Hulse (VO)* [2018] UKUT 224 (LC). All concerned the rateable value of self-catering holiday units for the 2010 rating list. None of the properties considered was a single unit, so Mr Costantin has analysed their findings on the cost of cleaning by looking at the number of SBS in each case, which ranged from 14 to 34.
29. He chooses as the most appropriate benchmark for the cost of cleaning, £239 per SBS (the lowest in the range) for Stowford Lodge. This he justifies in two ways. Firstly, Stowford Lodge had an FMT per SBS of £2,391, which is close to Mr Costantin's assessment of an FMT per SBS of £2,399 at High Smarber. (This figure erroneously based on six SBS rather than five.) Secondly, he points out that the £5,500 total annual cost of cleaning at Stowford was based on 10% of FMT, in line with other assessments and decisions. Taking 10% of his assessment of FMT at High Smarber gives an annual cost for cleaning of £1,439, which at £240 per SBS (for six SBS) is consistent with the Stowford decision.
30. On the one hand, Mr Facciolo comments correctly that the cost of cleaning a five unit (20 SBS) property in Devon in 2008 is not an appropriate benchmark for a 2015 assessment of cleaning costs relating to a single unit in a more remote location in North Yorkshire. I also note that if the correct number of SBS had been used for High Smarber the comparisons would not have been close anyway.
31. On the other hand, Mr Costantin points out correctly that cleaning costs were either agreed or determined at 10% of FMT in the decisions of *Dennett v Crisp*, *Beaconside (and Jones) v Gidman*, and *Wishart v Hulse* (9.7%). Using my earlier assessment that the appropriate FMT for High Smarber is £12,662, to assess cleaning costs at 10% would give a figure of £1,266, which is below that proposed by Mr Costantin. Mr Costantin's figure of £1,439 is 11.4% of £12,662 and at £10 per hour would reflect 144 hours of cleaning time (four hours per week for 36 weeks or 3.5 hours per week for 41 weeks).
32. It is important to remember that the decisions to which Mr Costantin refers all concerned multiple self-catering units in relatively well populated areas or with economies more attuned to the provision of holiday accommodation (Cornwall, Devon and Kent). These

are likely to afford easier access to labour and the opportunity for some economies of scale for cleaning. Not the least of these would be in the hourly rate paid for someone to attend and clean a number of properties by comparison with the rate required for someone to attend and clean a single property in a more remote location in North Yorkshire. I conclude that the answer for High Smarber, in the context of the rating hypothesis, lies somewhere between the generous allowance of 3.9 hours per week for 52 weeks and the more limited position of 3.5 hours per week for 41 weeks. No evidence is provided of how many weeks were actually let in each year, but I assess that it would be reasonable for cleaning services, averaging 3.5 hours per week, to be expected for a standard number of working weeks in a year, at 46. At £35 per week, the annual cost would be £1,610 or 12.7 % of FMT at £12,662. I consider a higher percentage of FMT to be appropriate for a single unit in this remote location by comparison with the multiple units in the more populous areas typical of the previous Tribunal decisions.

Repairs

33. The actual repairs costs incurred over the three years 2012-13, 2013-14 and 2014-15 were £859, £273 and £3,218. Mr Facciolo adopts an average of those costs at £1,450. He does not provide a breakdown of the annual figures but explains that the much higher cost in 2014-15 included a partial redecoration costing £1,145. Mr Facciolo makes the case that any hypothetical tenant would factor in sufficient allowance for the periodic costs of decorating and a share of track maintenance. I agree with this contention, but consider that a three-year average which includes such a high figure for 2014-15 is not a reliable measure.
34. Mr Costantin adopts a figure of £750, justified by reference to the decisions in *Dennett* and in *Beaconside* for Stowford Lodge, both of which determined annual repairs costs which analysed to £750 per letting unit. Since these were costs relevant to a 2008 valuation date, they are not helpful as a guide for costs at a 2015 valuation date.
35. In *Wishart* repair costs, including land maintenance, were considered as a percentage of FMT, and comparisons made with the *Redrose* and *Beaconside* decisions. A figure of 10.3% was adopted in *Wishart*, figures of 16.3% and 10% for the two properties in *Beaconside*, and 12.4% in *Redrose*. When the identified elements for land maintenance are excluded, the figures are 7.4% and 8.2% for the two properties in *Beaconside*.
36. Mr Costantin's figure of £750 equates to 5.9% of the FMT at £12,662 and Mr Facciolo's figure of £1,450 equates to 11.5%. I adopt a figure of 9% of FMT and put the annual allowance for repairs at High Smarber at £1,140.

Commission

37. I have now determined FMT at £12,662, based on the average adjusted receipts for the three years 2012-13 to 2014-15, and the cost of commission should be related to that figure. The commission charges and booking fees for each year were £2,059, £3,139 and £2,368 respectively. Mr Costantin has calculated the additional commission for 2014-15 at £304 to give a new total of £2,672. I adopt the same approach to calculate the additional

commission on notional receipts from the three privately used weeks in 2012-13. The adjusted receipts for that year are £1,185 (£11,749 less £10,564). Assuming 76% of that amount would have come from agency lettings, and taking 25% as commission, produces a figure of £225. Adding that to £2,059 gives an adjusted commission of £2,284. Thus the adjusted commission charges for the three years are £2,284, £3,139 (no adjustment required) and £2,672. The average of those figures is £2,698 which I note is marginally higher than the figure agreed by Mr Facciolo. I therefore leave the agreed figure in place.

Miscellaneous

38. Mr Costantin states in his report that he adopts a figure of £100 for miscellaneous expenditure, but he forgets to include it in his final R & E calculation. It is agreed by Mr Facciolo and I reinstate it in my own assessment.

Revised R & E

	Agreed or UT(LC)	App	Resp
Receipts		£11,733	£12,796
Adj for private use		£929	£1,601
FMT after adjustment	£12,662	£12,662	£14,397
Expenses			
Energy	£1,168	£1,168	£1,168
Cleaning	£1,610	£2,036	£1,439
Kerosene for boiler	£1,826	£1,826	£1,826
Insurance	£565	£565	£565
Advertising	£200	£200	£200
Repairs	£1,140	£1,450	£750
Supplies	£575	£575	£575
Commission	£2,672	£2,672	£2,672
Membership	£75	£75	£75
Postage	£25	£25	£25
Miscellaneous	£100	£100	0
	£9,956	£10,692	£9,295
Depreciation	£850	£850	£850
TOTAL EXPENSES	£10,806	£11,542	£10,145
Expenses as % FMT	85.3%	91.2%	70.5%
NET PROFIT	£1,856	£1,120	£4,252
50% as rent	£928		£2,126
PROPOSED RV	£920	£1,000	£2,100

39. My R & E valuation shows total expenses at 85.3% of FMT, whilst Mr Costantin's valuation shows them at 70.5% and Mr Facciolo's at 91.2%.

40. In his report Mr Costantin looks at the equivalent percentages shown in the *Dennett*, *Redrose*, *Beaconside* and *Wishart* decisions, which range from 67.95% (*Redrose*) to 78.49% (*Beaconside*). (No R & E valuation was produced in the *Calver* case.) His own figure sits at the lower end of the range. However, I note again that all of those decisions concerned multiple unit self-catering properties, where some economies of scale might be expected for expenses by comparison with a single unit. I have been shown no analysis of the evidence for the other single unit properties identified by Mr Costantin as comparables, or any other single units, and I therefore assume that my figure is higher than those from previous decisions for the reason given.
41. Mr Costantin also reviews the decisions with regard to the landlord: tenant split to identify the rental value. In all cases bar *Redrose* a 50:50 split was adopted. The *Redrose* case allocated 75% to the tenants in recognition that remuneration in the form of directors' salaries had been excluded from the expenses. In *Wishart* the equal split was conditional on an adjustment being made in the R & E account to recognise the work that the ratepayer and his wife contributed to the running of the business as an expense (see paragraph 78). In this case a 50:50 split has been agreed in principle by the parties.
42. My R & E valuation produces a modest net profit of £1,856 and a rental value of £928 based on a 50% split.

Discussion

43. This is the first appeal to be considered by the Tribunal on the RV of a self-catering holiday unit in the 2017 rating list. One of the practical problems faced by the VO in compiling a new list is that the 'tone' of the list will only be established once challenges and appeals have given rise to alterations so that the list can be considered to have settled. In its Practice note 2017, on self-catering holiday accommodation, the VOA states that economic changes since the previous AVD of 1 April 2008 mean that in some instances income will not have kept pace with increased overheads, and profitability will have diminished.
44. Whether or not this was the case at High Smarber the increase in RV, from £1,725 in the 2010 list to £3,350 in the 2017 list, will no doubt have been an unwelcome surprise for Mr Facciolo. However, Mr Facciolo is unusual in having pursued firstly a challenge, then an appeal to the VTE and a subsequent further appeal to this Tribunal. He is unusual because small business rate relief will relieve most ratepayers in a similar situation of the burden of paying rates, so there is no foreseeable gain to be had in making a challenge. Mr Facciolo has pointed out that there is no guarantee that this relief will continue indefinitely, which is a valid point.
45. The VO's Decision Notice, following Mr Facciolo's challenge, confirmed that the basis for amending the RV downwards from £3,350 to £2,750 was a change in the location classification of High Smarber, so that the rate per SBS reduced from £675 to £550. The 'price per bed space' scheme of valuation for self-catering hereditaments of up to four units is described in the VOA's Practice note 2017 as an approach which had been developed with the 'English self-catering industry'. The 2017 valuation scale is based on

the number of single bed spaces, ranked across four location categories and three quality categories. However, it is important to note that the scale was said to be derived from evidence of the accounts and receipts of commercially run self-catering hereditaments, using R & E methodology to establish rental values, before devaluing back to a rate per SBS. No evidence has been supplied to support the figures used in the 2017 valuation scale.

46. Without a sufficiency of accounting evidence, which would be more likely to come forward on appeals, the scales remain little more than hypothetical until challenged. When Mr Facciolo appealed to the VTE he requested financial details of comparable properties, so that he could see how the price per bed space had been calculated. None was made available, and it may not have existed. It is therefore not obvious what material the VTE relied on when it stated simply that it was satisfied that the unit price of £550 per bed space was correct and that the VO had placed High Smarber in the correct categories for location and quality. After all, each of the five appeals which reached this Tribunal under the 2010 list resulted in success for the ratepayer.
47. I acknowledge that it has been a time-consuming exercise for both Mr Costantin and Mr Facciolo to undertake R & E valuations for High Smarber and then to find as much common ground as possible. Mr Costantin's analysis of local single self-catering units would have been much more helpful had a similar exercise been conducted for each, but I accept Ms Franklin's point that it would not be proportionate given the level of the RVs and lack of payment liability resulting from small business rates relief. Mr Costantin therefore turned to analysis of decisions from this Tribunal relating to the 2010 list. Those decisions have given rise to some helpful principles, but it was not appropriate to use any of the figures from those cases in this assessment.
48. Both parties were inconsistent in the number of SBS they adopted at High Smarber. In his statement of case Mr Costantin adopted four SBS, but at the rate per SBS for location category 2 rather than 3. In his report he refers to the confirmation of five SBS at the check stage, but thereafter carries out his analysis based on six SBS. Mr Facciolo does not generally use SBS but does analyse his cleaning costs over six SBS rather than five. These inconsistencies have clouded the main issues and led to unnecessary differences.
49. All of the above gives context to this appeal and my use of R & E methodology to find a net profit of £1,856 for High Smarber at the valuation date of 1 April 2015. Using the conventional approach of a 50:50 split to establish the landlord's share as the rental equivalent, and the VOA's rounding policy for rating lists, my valuation produces an RV of £920, which is less than that proposed by Mr Facciolo. He seems to propose his figure of £1,000 as a minimum RV which he thinks is acceptable, rather than the outcome of his R & E valuation.
50. Good practice now requires the valuer to stand back and look at the final figure. In this case I must consider whether a figure of £920 correctly represents the annual rent for which High Smarber might reasonably have been expected to let from year to year, at the valuation date of 1 April 2015, on the assumption that it was in a state of reasonable repair and that the notional tenant would be responsible for maintaining it in that state.

51. It is acknowledged by both parties, and by this Tribunal in previous decisions, that there is scant, if any, evidence of holiday cottages being rented by annual tenants in order to conduct self-catering holiday letting businesses. The majority of single holiday cottages in rural areas are purchased for investment, through growth in capital value, and/or occasional use as holiday homes, with holiday lettings undertaken during the rest of the year to cover the costs of ownership and upkeep (this hereditament may be an example of the latter category). The statutory assumption that the notional tenant bears the cost of repairs and insurance removes the hypothesis still further from the real world of residential property lettings, where landlords bear all those costs. It is precisely for this reason that the R & E method of valuation is adopted for this type of property. As Mr Facciolo quoted from the Tribunal decision in *Hughes* “..the fact that the receipts and expenditure method suggests a nominal or nil rateable value is not a reason for rejecting its use...”.
52. On the other hand, if RV were to be determined in every case by the R & E method, it would require a higher degree of cooperation between VO and ratepayer and would be more time consuming. It might also make it difficult to achieve the important aim of maintaining a fair standard across the country between like hereditaments. This decision does not endorse the VO’s Practice Note 2017 as appropriate for single unit hereditaments and identifies some of the ways in which location may influence valuation. It may be necessary in due course for the Tribunal to consider the reliability of the Practice Note in the valuation of more substantial hereditaments in this problematic class.

Decision

53. I determine that the rateable value of the appeal hereditament is £920 with effect from the material day of 1 April 2017.
54. The appeal was heard under the Tribunal’s written representations procedure which is not a procedure under which costs are normally awarded unless either party has behaved unreasonably or the circumstances are in some other respect exceptional. Neither party acted unreasonably and there are no exceptional circumstances. I therefore make no order as to costs.



Mrs Diane Martin MRICS FAAV

22 April 2020