

Introduction

1. This is an appeal by the ratepayer, ARMA Hotels Ltd T/A The Brent Hotel, against a decision of the Valuation Tribunal for England (“the VTE”) dated 17 July 2019 in which the VTE ordered the Valuation Officer (“VO”) to amend the rateable value (“RV”) certified for The Brent Hotel (“the Hotel”), Preston Hill, Kenton, Harrow HA3 9UY for transitional relief purposes to £15,500 with effect from 31 March 2017.
2. The appeal was heard under the Tribunal’s simplified procedure. Mr Anup Patel represented the appellant company in his capacity as a director. The respondent VO was represented by Mrs Doreen Thorne BSc(Surv) MRICS DipRating who gave expert valuation evidence.

Background

3. The Hotel is a bed and breakfast establishment converted from a detached residential property in the early 2000s. It was purchased from receivers by the appellant company in November 2014. Between 1 January 2015 and 13 May 2016 refurbishment works were carried out, including provision of an enlarged kitchen/breakfast room leading to the loss of bedroom 13 and a reduction in size of bedroom 16. A plan of the hotel dated 9 May 2018 shows five en-suite bedrooms on the ground floor, together with a reception room and laundry/luggage room, seven en-suite rooms on the first floor (one in use as a laundry room) and five en-suite rooms on the second floor (one in use as a laundry room). Mr Patel confirmed that the hotel is considered to be of 3* equivalent, but without a bar or restaurant.
4. The Hotel is located on Preston Hill in the London Borough of Brent. It has limited parking within the curtilage, but there is on-street parking in the surrounding residential area. Tube services are available half a mile away at Preston Road and just under a mile away at Kingsbury. Shops and restaurants are located in the vicinity of the two stations and to walk to either involves a hill either on the way out or way back. The Hotel is two miles from Wembley Stadium and three miles from Harrow-on-the Hill.
5. On 12 December 2018 a transitional certificate was issued by the VO certifying an RV of £28,000 as at 31 March 2017. The appellant appealed against the Certificate and, in the absence of agreement, the matter was referred to the VTE under Regulation 21 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016. In its decision of 17 July 2019 the VTE ordered that the Certificate be amended to show £15,500 RV.

Legislation

6. The issue to be determined is the value to be certified at 31 March 2017 in accordance with Regulation 17 of the 2016 Regulations. The material day is 31 March 2017 and the date of valuation is 1 April 2008 – the antecedent valuation date for the 2010 Rating List.
7. The RV is to be determined in accordance with section 56 and Schedule 6 to the Local Government Finance Act 1988. The matters affecting the physical state and physical enjoyment of the hereditament, the mode or category of occupation of the hereditament, matters affecting the physical state of the locality in which the hereditament is situated, and the use or occupation of other premises situated in the locality of the hereditament, are all to be considered as at the material day, 31 March 2017.
8. In summary, the RV is to be assessed as the rental value as at 1 April 2008, on the statutory assumptions for rating set out in Schedule 6, in the context of the physical state of the hotel on 31 March 2017.

The disputed figures and issues

9. In its statement of case, the appellant contended for a rateable value of £9,300, based on 12.24 Double Bed Units (“DBU) using the basis of fair maintainable trade (“FMT”) as a primary methodology and a final discount of 15% for the material change of circumstances in the locality. In his closing submission, Mr Patel submitted that the rateable value should be lower, at £8,400.
10. The respondent proposed an RV of £15,250, based on 13.94 DBU using the basis of comparative valuation as a primary methodology and a final discount of 8.25% for the material change of circumstances in the locality. Mrs Thorne had originally maintained that the VTE was correct, but upon remeasuring she adjusted her figure as we outline below.
11. The matter therefore fell to be considered as three issues. First, we need to establish the correct number of DBU, secondly to consider application of an appropriate methodology to establish the correct RV and thirdly to consider the appropriate discount for material change of circumstances in the locality.

Issue 1 – The number of DBU

12. The parties were in dispute as to the effective number of DBU provided by the hotel at 31 March 2017. DBU is a factor in the valuation of hotels for rating purposes, using methodologies set out in the VOA Rating Manual, Section 510: Hotels (“Section 510”). The Rating Manual has no legal standing, and is not binding on the Tribunal, but both parties referred to Section 510 in their evidence and we accept the guidance as helpful in this appeal.
13. Section 510 provides the following guidance on classification of rooms by size (measured to Net Internal Area “NIA”) and DBU adjustment factors:

En-Suite Rooms (DBU factor)	Size Guide (NIA, excluding en-suite)
a) Double or twin (1)	10 – 20 sq m
b) Single (0.7)	Up to 10 sq m
c) Family (1.25)	20 – 30 sq m
d) Suite – Standard (1.5)	2 rooms or over 30 sq m
e) Suite – Superior (2)	2 rooms or over 30 sq m

For second floor rooms where there is no lift, a 15% reduction is applied to the relevant factor. We note that the size guide features in older versions of Section 510, but not in the current version.

14. Mr Patel submitted that the correct number of DBU for the hereditament was 12.24 while Mrs Thorne initially maintained that the correct number was 14.24. The difference arose concerning the classifications of Rooms 11 and 28 as single or double (DBU 0.7 or 1.0) and the classification of Rooms 16 and the first floor laundry as lettable for single bed use or not (DBU 0.7 or 0).
15. The parties agreed that the dimensions shown on the plan dated 9 May 2018 were generally correct but some re-measurement had taken place during a site inspection by Mrs Thorne on 19 December 2019. Following re-measurement of Room 11, the size of the bathroom was increased, and a further deduction made for dead space between the door and the bathroom, resulting in a smaller NIA of 10.12 sq m. Given the borderline size of the room Mrs Thorne revised her assessment of Room 11 from a double to single room. This reduced her assessment of the total DBU to 13.94.
16. Room 28 had a NIA of 10.26 sq m. Mr Patel maintained that this was only let as a single room and should be classified as such. He felt that the area behind the door should be deducted, as for Room 11, which would reduce the size below 10 sq m and thus clearly fall within the size of a single room. Mrs Thorne's view was that the different shape of Room 28, being square, meant that the area behind the door should remain in the NIA measurement, as it did for all the other rooms. On questioning Mr Patel stated that it was not an issue for any other rooms, because this was the only one where the NIA was on the borderline of a size classification. Mrs Thorne admitted that the difference in NIA between Room 11 at 10.12 sq m and Room 28 at 10.26 sq m was marginal, but maintained that a small double bed could be used there.
17. Room 28 is only marginally different in NIA from Room 11. We therefore classify it as a single room, with a DBU of 0.7.
18. Room 16 was reduced in size when the enlarged kitchen/breakfast room was created and would be classified as a single room if in use, as Mrs Thorne maintained it should be. Mr Patel explained that the room was unlettable as a result of being situated opposite the hotel reception and adjacent to the entrance door, with a smoking area immediately outside its window. Use was made of the room for night staff.

19. We are of the view that Room 16 is not practical for letting and we therefore discount it from the total DBU assessment of the hotel. Mrs Thorne pointed out that if the room was used as dedicated domestic space then it should be considered for a Council Tax entry. We do not consider that further in this decision.
20. The first floor 'laundry room' is an en-suite single bedroom, which Mrs Thorne believed should be included within the total lettable space of the hotel given the existence of other laundry rooms on the ground and second floors. Her evidence was that she had never experienced a hotel of this size having laundry rooms on each of three floors. Mr Patel explained that laundry was collected weekly by a contractor from cages on the ground floor. Without a lift in the hotel, and with landings between the bedrooms being too narrow for a laundry trolley, it was necessary to collect first floor laundry in a room on that floor to minimise disruption to customers.
21. During cross-examination, Mr Patel acknowledged that at the material day of 31 March 2017 the number of rooms to be cleaned and turned round would on average have been 4-5 per day across the hotel. We conclude that the scale of the business at that date was not sufficient to necessitate a dedicated laundry room on the first floor, and the provision of two laundry rooms was, in any event, more usual for an establishment with 15 lettable bedrooms.
22. In summary we accept the appellant's assessment of the DBU, with the exception of the first floor laundry room, which we add in at 0.7 for a single room, making a total DBU for the hotel of 12.94.

Issue 2 – Application of an appropriate valuation methodology

23. Neither party provided evidence of rents at the valuation date of 1 April 2008 so both looked at other valuation approaches, suggested by Section 510.
24. The 'shortened receipts and expenditure method' is used for 4* and 5* hotels, and major chain operated hotels, under a national valuation scheme agreed with industry representatives. The fair maintainable trade ("FMT") (i.e. maintainable level of annual receipts) is established by reference to accounts for the three years prior to the valuation date, and a percentage is then applied to arrive at rateable value. Agreed scales provide for the number of DBU and the proportion of accommodation receipts within the total turnover to be taken into account in selecting the appropriate percentage to apply.
25. For smaller hotels, the national valuation scheme is not directly applicable and the methodology used would be a comparative rental value per DBU based on locally suitable comparable evidence. In the absence of actual rental evidence, the availability of a settled tone of the list for 2010 rateable values could be substituted.
26. Mr Patel pointed out that whilst the Brent Hotel would be classified as a 'small independent hotel', not normally valued under the scheme of valuation based on FMT, there was no prescribed basis of valuation. He proposed that the appropriate methodology for the Hotel should be a percentage of FMT.

27. Mr Patel provided evidence of profit and loss accounts for the Hotel for the three years ending 28 February 2009, 2010 and 2011. The receipts for those years were £172,153, £127,214 and £153,748 respectively. No accounts from earlier years were available to him.
28. Mr Patel proposed that FMT was represented by an average turnover figure across the three years of £151,038. Under cross-examination he accepted that the hypothetical tenant offering rent at 1 April 2008 would only be looking at past trading performance, but maintained that he would be aware of future uncertainty arising from the emerging global financial crisis and from the competition of new hotels being built in the locality.
29. To arrive at a proposed rateable value, Mr Patel used the agreed scales for 'Hotels – Lower Service Provision' in Outer London, as found in the VOA published Provincial Hotels (England & Wales) – 2010 Agreed Valuation Scheme. He assumed a DBU figure of 13.24 as at 1 April 2008, assessing accommodation receipts per DBU of £11,408. Since 100% of the receipts for the Hotel were derived from accommodation, he applied the part of the scale for receipts of 80% or above to assess an RV percentage of 8.3%. We assume that this was by interpolation between figures of 8.0 % for receipts per DBU of £10,000 and 8.5% for receipts per DBU of £12,500, although both figures are at the lowest end of their ranges. Having established a figure of 8.3% from the table, Mr Patel then reduced this by 1% (in effect 12% of the starting figure) for the lack of a restaurant or bar, to get a final figure of 7.3%. His proposed RV was therefore 7.3% of £151,038 or £11,025, before adjustment for the material change of circumstances in the locality.
30. That calculation invites a number of observations. First, it is not appropriate to take an average of annual receipts from a three year period which post-dates the valuation date. Secondly, the number of DBU should be taken at the material day of 31 March 2017, and therefore 12.24 in Mr Patel's submission. Thirdly, an arbitrary adjustment of 12% for lack of bar or restaurant is effectively double discounting for the adjustment already made by assessing accommodation receipts (rather than total receipts) per DBU.
31. Mrs Thorne used the FMT methodology as a check to her primary approach. Disregarding the seemingly odd receipts figure from 2009-2010, she noted a decline of 10.7% (5.35% per annum) from the 2008-09 accounts through to 2010-11 and extrapolated back from the 2008-09 receipts of £172,153 by adding 5.35% to get a FMT figure of £181,000 (rounded down). Using 13.94 DBU (her assessment as at 31 March 2017), and therefore accommodation receipts of £12,984 per DBU, she identified that in the same table used by Mr Patel the appropriate range of percentage RV was 8.984% to 11.484%. She placed the hotel mid-way in the range at 10.234%. Her proposed RV was therefore £18,524 before adjustment for the material change of circumstances in the locality.
32. We note that Mrs Thorne has over 20 years' experience in valuing hotels in the Greater London area for rating purposes. She is therefore familiar with the agreed scales and confident in applying them. However, we do not have confidence in her starting point of a FMT of £181,000 based on extrapolation back in time using an arbitrary selection of two of the three sets of annual accounts, but we accept that she used the method as a sense check on her primary method of valuation.

33. We conclude that neither party has presented evidence in which we can have confidence as a basis for use of the FMT methodology to establish rateable value.
34. We therefore turn to the alternative valuation methodology, based on local comparative evidence, which is generally considered more appropriate for small independent hotels.
35. Both parties provided evidence and analysis of assessments from the 2010 rating list for hotels within the area, but they differed in their view as to the extent of the appropriate area for comparison. Mr Patel considered the perspective of a hypothetical prospective tenant looking at comparable hotels to rent and extended his area of consideration to include Muswell Hill. Mrs Thorne considered the perspective of a prospective occupant seeking a room in the locality of Wembley Stadium and Harrow, in order to identify similar hotels to the Brent Hotel and establish the 'competitive set'.
36. There was a large amount of consistency between the two lists of comparable hotels, but dispute as to the reliability of the rateable values stated in the 2010 list. Mrs Thorne contended that as the list was closed, and the tone had been established, a comparative analysis of the hotels could be made on the basis of RV per DBU. Mr Patel contended that there were anomalies in the list which suggested that it could not be relied on. He also commented that it is not easy for a rate payer to use the published list in a meaningful way as there was no information on the number of DBU assessed for each property. We have sympathy with that view and applaud Mr Patel's efforts to obtain further information on suitable comparable hotels through reading rating appeal decisions of the VTE and personally visiting hotels to be used as comparative evidence.
37. Both parties started their analysis by reference to the VTE's decision that from the tone of the 2010 list a rate of £1,200 per DBU was applicable to the Hotel. Mr Patel provided evidence of 15 hotels, with analysis of the RVs from the 2010 list and commentary on comparability. Mrs Thorne provided a list of 14 hotels, sorted in order of RV/DBU, of which 10 were in common with Mr Patel's list.
38. In presenting his case Mr Patel took us first to the Sudbury Hotel, Harrow Road, Wembley HA0 2SA, with a rate of £1,300/DBU. It was very comparable to the Brent Hotel in being a conversion from residential use, having 16 bedrooms, no lift and no bar or dining facilities. This had been the key comparable used by the VTE, adjusted down to £1,200 to account for the additional parking, closer proximity to shops and generally superior location by comparison with the Brent Hotel. Mr Patel felt that the adjustment should be greater on account of its better location. Mrs Thorne subsequently pointed out that the RV of the Sudbury Hotel had been reduced to £1,300/DBU on appeal due the rooms not having en-suite facilities. It was therefore less valuable than the Brent Hotel in this respect and she felt that the adjustment was appropriate.
39. Next were considered the Adelphi and Arena Hotels at 4 and 6 Forty Lane, Wembley HA9 9EB. Like the Brent Hotel, both were conversions from residential property, with no lift and no bar or dining facilities, but they had more on-site parking, easier access to shops and were closer to Wembley Stadium. The Adelphi Hotel had 27 bedrooms, not all en-suite, assessed at 21.35 DBU and an RV of £14,750 or £700/DBU. This was by far the

lowest in Mrs Thorne's list, and she commented this was "obviously wrong". By contrast the adjacent Arena Hotel was shown as having 10 bedrooms, assessed at 9.35 DBU and an RV of £17,750 or £1,900/DBU. Mr Patel commented that his research showed there were actually 14 rooms at the Arena Hotel, which would affect the rate/DBU. He pointed out that these two hotels, each with apparent anomalies, were evidence that the rating list and its tone were not reliable for use on a comparative basis. We share the view that these two hotels do not provide reliable evidence, but would not apply the view automatically to the whole list.

40. The Kempsford Hotel, 21-23 St John's Road, Harrow HA1 2EE, had been demolished in August 2016, but was previously shown with an RV of £22,000 (following a VTE appeal in 2013) for 18.24 DBU, giving a rate of £1,200/DBU. It was converted from residential property, in a town centre location with ample parking. It had a function room, dining room and bar, but not all rooms were en-suite and they had been described at the VTE hearing as 'dated and below average size'. The neighbourhood had been predominantly offices, but with most subsequently vacant it had become less desirable. Mr Patel maintained that this was a superior hotel to the Brent Hotel in most respects and that the rate should be adjusted down for comparability.
41. Park House Hotel, 34-36 Pinner Road, Harrow HA1 4HZ had been removed from the rating list in August 2017 but was previously shown with an RV of £18,300 for 17.4 DBU, a rate of £1,051/DBU. It was a residential conversion, in a town centre location, with 24 en-suite rooms, a dining room and car park but no bar. Mr Patel described it as far superior to the Brent Hotel. However, it was not included in Mrs Thorne's sorted list, and her information sheet on the property shows the RV as having been assessed by FMT methodology. We do not therefore apply significant weight to this evidence.
42. In reviewing the tone of the list, both parties cited other hotels, many of which were larger and not directly comparable to the Brent Hotel for this valuation exercise. It is not necessary for us to consider them further.
43. We note that in his evidence Mr Patel adjusts down from a starting point of £1,200/DBU by making a series of percentage discounts for locality and facilities amounting to 40%, without specific reference to individual comparable properties. We agree with Mrs Thorne that these factors are already accounted for in the relative rates of DBU within the tone of the list, and we address that below.
44. Having considered the evidence presented to us on the tone of the list, we place significant weight on the evidence of the Sudbury Hotel and the Kempsford Hotel. We agree with Mr Patel that the Brent Hotel has a number of significant comparative disadvantages arising from limited parking and its location beside a busy road, some distance away from shops and restaurants. We agree that it should sit below the level of the Sudbury Hotel (at £1,300/DBU) and also below the Kempsford Hotel (at £1,200/DBU). We assess the appropriate figure for the Brent Hotel to be £1,100/DBU.
45. The resulting RV before adjustment for material change of circumstances in the locality is therefore 12.94 DBU @ £1,100 = £14,234.

Issue 3 – Discount for material change of circumstances in the locality

46. It is agreed by the parties that there was a material change in circumstances in the locality at the material day of 31 March 2017 resulting from the opening of other, mostly larger, hotels in the Wembley area. Mrs Thorne acknowledged that the opening of new hotels closer to Wembley Stadium than the Brent Hotel would have had an impact on business, but pointed out that there were some closures as well as new openings during the period. Mr Patel in cross examination asked her about the impact of AirBnB and heavy discounting by superior hotels. Mrs Thorne replied that these were economic factors which would not have been evident at the AVD.
47. Mrs Thorne gave evidence of an allowance of 8.25% agreed on a comparable basis for the 27 bedroom independently run Wembley Hotel, as a result of a new Travelodge opening close by in February 2015. An allowance of 11% was made for the Wembley Premier Lodge on an FMT basis, with evidence of the impact of the same Travelodge opening. She contended that without evidence of direct impact on trade, the amount of allowance due to the Brent Hotel would be a matter of professional judgement. Her opinion was that the allowance should be less than 11% because at the Wembley Premier Lodge the new hotel was immediately adjacent to it. This was also the case for the Wembley Hotel, so in theory the Brent Hotel should be less than 8.25% as it was not in the same immediate area. However, Mrs Thorne pointed out that there was a counter-balancing benefit for the Wembley Hotel being in central Wembley and able to pick up overflow from the larger hotels, including the Travelodge. Mrs Thorne therefore proposed an allowance of 8.25%.
48. Mr Patel contended that a more significant allowance of 15% was appropriate, but did not supply any direct evidence for this figure.
49. We prefer Mrs Thorne's evidence and adopt her allowance of 8.25%. When applied to the RV determined above the final RV is £14,234 less £1,174 = £13,060, which we round to £13,000.

Determination

50. The appeal is allowed in part. We determine that the value to be certified at 31 March 2017 in accordance with Regulation 17 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 is £13,000.
51. The appeal was heard under the Tribunal's simplified 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 claimed its costs, and we therefore make no order as to costs.



Peter McCrea FRICS FCI Arb



Mrs Diane Martin MRICS FAAV

26 March 2020