

UPPER TRIBUNAL (LANDS CHAMBER)



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Royal Courts of Justice

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RATING – valuation – alteration of rating list – racing stables and yard – rental evidence – evidence of other assessments - end allowance – appeal allowed – assessment determined at rateable value £12,200

AN APPEAL AGAINST A DECISION OF THE VALUATION TRIBUNAL
FOR ENGLAND

BETWEEN:

SIMON EARLE RACING LIMITED

Appellant

-and-

DAL VIRK
(VALUATION OFFICER)

Respondent

Re: Lower Barn at The Beeches,
Deverill Road,
Sutton Veny,
Warminster,
Wiltshire,
BA12 7BY

Mr Mark Higgin FRICS FIRRV

Heard on 9 August 2022

Decision Date: 24 November 2022

Mr Christopher Marriott for the appellant
Mr Roy Albert for the respondent

The following cases are referred to in this decision:

Flight Centre (UK) Limited v Ricketts (VO) [2021] UKUT 0315 (LC)

Hobbs v Gidman (VO) (2017) UKUT 63 (LC)

Lotus and Delta Ltd v Culverwell (VO) [1976] RA 141

Introduction

1. This is an appeal by Simon Earle Racing Limited against a decision of the Valuation Tribunal for England (“the VTE”) dated 7 February 2022, in which it determined an appeal against a decision notice issued by the Valuation Officer (“the VO”) at a rateable value of £13,750 for the Lower Barn at The Beeches, Deverill Road, Sutton Veny, Warminster, Wiltshire, BA12 7BY (“the property”). The effective date of the decision was 30 October 2018 this being the date on which the property was first entered in the Rating List as a separate hereditament. It is described in the Rating List as “Racing Stables and Premises”.
2. In this appeal the appellant sought a rateable value of £12,000 based on £485 per stable and the respondent sought to increase the VTE’s determination to rateable value £15,000 based on £630 per stable.
3. The appellant was represented at the hearing by Mr Christopher Marriott MA FRICS IRRV (Hons) and the respondent by Mr Roy Albert BSc (Hons) MRICS. Mr Marriott is the sole director of Marriott Brown Ltd and began his career as a Cadet Valuer with the Valuation Office in 1972. He has been valuing equestrian properties since he entered private practice in 1986 and is rating advisor to the National Trainers’ Federation. Mr Albert joined the Valuation Office Agency (“VOA”) in 2004 and has been dealing with rating cases since 2017. He is a Lead Valuer in the Regional Valuation Unit based at Bristol. The case was conducted under the simplified procedure and the representatives acted as both advocates and expert witnesses. I am grateful to them both for their assistance.
4. I inspected the property on 11 July 2022 accompanied by Mr Marriott and Mr Albert. I was shown the stables where the horses are kept, the adjacent offices and stores, a large horse walker used for exercising the horses, paddocks and nearby gallops. I will say more about these facilities later in the decision. On the same day I inspected comparable properties in Wiltshire and Hampshire and I will examine these in detail as part of the decision.

The facts

5. The property under appeal comprises stables and training facilities for racehorses, often known as “a yard”, being the term applied to the traditional layout of stabling around a central yard. It was evident from my inspection of this property and others that stables (sometimes known as boxes) in racing yards come in many guises. They vary from brick or block built structures housing a single horse to barns containing a number of loose boxes or stables. Modern versions of this latter arrangement are commonly known as ‘American Barns’. Some sites have a combination of both types. For the sake of simplicity I will refer to stables whether I am alluding to individual stables or those inside a barn.
6. The property is situated just to the west of the village of Sutton Veny, about 2.75 miles east of Warminster and 20 miles northwest of Salisbury. It originally formed part of a much larger adjacent complex of stables and facilities known as “The Beeches”. I will say more about The Beeches when I consider the comparables. Access to the property is through The Beeches by means of a road that serves both sites.

7. The primary building on site is a large ‘American Barn’ of timber portal frame construction with a pitched roof covered in corrugated sheets. There are a number of roof lights to provide daylight to the interior and the whole structure sits on a concrete base. Internally the barn was originally configured with 12 stables down either side of a central corridor. Each stable is constructed of timber and galvanised steel, the timber parts extend up to a height of about 1.2m and the remaining metre or so of the box is made up of galvanised bars placed vertically at spacings of about 10cm. This arrangement allows the horses to see out and assists in keeping the barn ventilated. There are drains in the floor to help with the cleaning out and hosing down of the stables. Latterly, two of the stables have been converted to other uses. It was not clear when this change took place but both experts agreed that for the purposes of the 2017 Rating List, the barn contained 22 stables. The site also includes a timber office/storage building and a block of four loose boxes in one of the paddocks. These boxes are again of timber and galvanised steel construction on a concrete base. I heard from the appellant that they were not licensed by the British Horseracing Authority (“BHA”) and could not therefore be used to stable racehorses. Unlike the rest of the site these loose boxes were not connected to mains electricity or water supplies, so both parties attributed a reduced value to them.
8. The final significant structure on site is a “horse walker”. A horse walker is a circular rotating device with a number of compartments in which horses can walk at various speeds. Its purpose is for exercise but particularly to warm up and cool down horses either before or after they are fully exercised on the gallops. The horse walker at the property is of an unusual design. It is covered and the rotating element is attached to the apex of the roof, thereby allowing space for lunge ring underneath. The original supplier was initially unable to recall the actual cost but later confirmed that the project as a whole would have amounted to £45,000.
9. The property has access to an adjacent gallops which forms part of the demise of The Beeches. Gallops are a defined and specially constructed course for exercising and training horses. They vary in length and in surface material but the two examples I inspected including the one adjacent to the property were markedly uphill in layout and had a surface of shredded rubber. The demise at the property also includes 2.33 acres of paddocks used for grazing. Mr Albert calculated the grazing area to be 1.74 acres. A further area of paddocks amounting to 8.33 acres is held on a separate licence at a nominal rent. The appellant also pays an additional fee of £80 per horse per month for access to the gallops.

Tenure

10. The property is held on a sub-lease from The Beeches for a 5 year term from 30 October 2018. The rental was £22,500 p.a. for the first year and £25,000 p.a. for the subsequent years. The landlord is responsible for external repairs and insurance.

Statutory background

11. Rateable value is defined in Paragraph 2(1) to Schedule 6 of the Local Government Finance Act 1988, as amended by The Rating (Valuation) Act 1999 as: "... 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 the usual tenant's rates and taxes and bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state fit to command the rent mentioned above."

Statute requires that the appeal property be valued reflecting certain matters as they existed on the material day, which for the 2017 Non-Domestic Rating List is 1 April 2017, and by reference to values pertaining at the Antecedent Valuation Date (AVD) which is 1 April 2015. The matters which must be taken at the material day are set out in paragraph 2(7) of Schedule 6 Local Government Finance Act 1988. The matters relevant to the appeal are:

- (a) matters affecting the physical state or physical enjoyment of the hereditament;
- (b) the mode or category of occupation of the hereditament;
- (c)
- (d) Matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there;
- (e) the use or occupation of other premises situated in the locality of the hereditament.

Valuation of racing stables

12. Before I deal with the rental evidence it is worth recording that the preferred methodology amongst valuers engaged in valuing racing stables is to devalue rents to a value per stable. Ancillary accommodation such as feed stores, offices and tack rooms, so long as they are proportionate to the number of stables, are reflected in the stable value. Mr Marriott said that it was common practice to apply a discount of 5 to 10% to American barns when undertaking valuations with comparables derived from traditional stables of brick or block construction. Mr Albert denied that there was a scale of allowances and commented that each case was judged on its merits.

13. For the purposes of the 2017 Rating List Mr Albert said that horse walkers are agreed in England and Wales at £50 per compartment and grazing paddocks are similarly valued at £200 per acre. It should be noted that whilst the value of paddocks is relevant to the devaluation of the rent, they are exempt from rating. Mr Marriott was of the view that a typical grazing requirement was 0.5 acres per horse.
14. It was common ground between the parties that the highest rate per stable was to be found in what Mr Marriott described as the 'top racing centres'. By consensus these appeared to be Newmarket in Cambridgeshire, Lambourn in Berkshire, and Middleham and Malton in North Yorkshire. Other areas where trainers tend to locate include Epsom, Cheltenham and the counties of Oxfordshire, Sussex and Wiltshire. Mr Marriott considered that the presence of shared facilities such as gallops and a skilled workforce made it desirable to locate in these centres and this was reflected in the values achieved. Mr Albert said at the hearing that he had considered proximity to a racecourse was also an important factor in determining value. Mr Albert explained that the highest values were in Newmarket where £850 to £1,000 per stable had been agreed on the 2017 Rating List. He also provided a commentary on what he considered to be the 2017 List 'tone' in other locations as follows:

Wiltshire = originally £675 (£600 on VTE Decision for subject property, £485 per stable (later amended to £470) requested by appellant, £630 by respondent)

Oxfordshire = £750 (£630 would likely be accepted on challenge)

Berkshire = originally £675 – reduced to £630

Hampshire = £675

Dorset = £550

Somerset = £525-£575 (near Wiltshire border)

Cotswolds = originally £675 (£630 agreed on challenge)

Warwickshire = £550

The extent to which the tone for Hampshire, Dorset, Somerset and Warwickshire had been challenged was unclear, but Mr Albert did confirm that the tone in Wiltshire was only established in so far as the VTE had made a determination in respect of the property under appeal. There were no other Wiltshire agreements.

15. Several of the rents referred to me by the experts were not on a fully repairing and insuring basis. It appeared to common ground between them that an adjustment of 5% was appropriate for a landlord's repairing liability. Similarly, an adjustment of 3.5% has been adopted where the landlord is responsible for insurance.

Rental evidence

The property

16. It was surprising to find that the experts had not been able to agree more of the factual issues, the property being neither large or complex. They were unable to agree a devaluation of the rent agreed for the property in October 2018, but had come to a consensus that, as I have already mentioned, the American Barn contained 22 boxes.
17. Mr Marriott made several initial adjustments to the rent to put it in terms where it could be used to inform the assessment. The first of these involved taking an average of the rent payable over the term of the lease to arrive at a figure of £24,500 per annum.
18. He then deducted 5% for the landlord having responsibility for external repairs and 3.5% because the landlord paid for the insurance. He made a further adjustment of 7.5% for the landlord's return on the horse walker and a tenant's contribution to the cost of maintaining the access roads and gallops. He was unable to explain how he had arrived at this percentage other than saying that it was a matter of 'valuer judgement'. Taken together, these adjustments resulted in a net rent, of £20,580.
19. However, Mr Marriott did not stop there. He explained that it was a BHA stipulation that a licenced yard needed to have someone on site 24 hours a day. There was no living accommodation at the property, so an agreement had been reached with the tenant of The Beeches (which is adjacent) for their 'Head Lad' to cover both operations. An e-mail from Mr Milton Harris of The Beeches was submitted by Mr Marriott confirming that:

“when we took the lease on an allowance of £5k per annum was agreed within his rental payments....”

20. He then provided details of the arrangements concerning the grazing licence for the paddocks. He submitted an e-mail from Mr George Windsor Clive MRICS of Windsor Clive International who were involved in the letting of the property. The e-mail confirmed:

“When we let The Beeches at Sutton Veny the grazing was let for a token sum under licence so the landlord could keep the Basic Payment. The tenant would NOT have taken the yard without it. You should therefore take into account £200/acre when assessing the actual value of the stables.”

Mr Marriott had duly allowed £2,132 per annum, being the product of 10.66 acres at £200 per acre. Information from the owner confirmed that grazing at the property totalled 10.66 acres. However, as I have already noted, 2.33 acres were within the demise. Mr Marriott was therefore wrong to value all the grazing and should, on his methodology, have simply taken 8.33 acres.

21. Mr Marriott then turned his attention to the horse walker which he valued at 4.4% of its 2009 cost of £45,000, this figure he said related to the rateable elements. Before attempting a final

devaluation to arrive at a value per stable Mr Marriott also subtracted the value of the lunge ring at £984. This element was later agreed at £1,020. These various deductions resulted in a value for the stables and loose boxes of £10,670 which he said equated to £485 per stable and £242.50 per loose box as the latter were valued at 50% of full stable value. It is worth noting that agreement on the number of stables was not reached until just before the hearing and Mr Marriott's conclusion on the stable value was erroneously based on 20 stables rather than 22. His analysis should therefore be revised to £447.50. The decision of the VTE was also based on stable numbers that were subsequently revised upwards.

22. Mr Albert's approach was notably less complex. He took a 'time weighted approach' to the adjustment of the stepped rent, noting that his methodology resulted in a minimally different figure of £24,405 per annum. He queried Mr Marriott's assertion that the landlord paid for the insurance and said that a Form of Return completed by the tenant stated that the cost was shared. The correct apportionment would in his view lead to an adjustment of 1.75%. He thought it inappropriate to deduct anything for the horse walker, the access road or the gallops noting that Mr Marriott had not provided an explanation of why he considered these items should be deducted. Similarly, the grazing licence covered an area of land which did not form part of the demise and in his view should not therefore be part of any analysis. His approach to the cost of the Head Lad was also to exclude the fee payable. He explained that it was not mentioned in the lease and appeared in the Form of Return as a service provided by the landlord from 2020.
23. Mr Albert's approach therefore began with an equivalent constant rent of £24,405 per annum from which he deducted 1.7426 acres of grazing paddocks at £200 per acre. This area was contained within the demise. A further subtraction of 6.75% was made for the landlord's external repairing liability and the shared costs of insurance. This resulted in a net rent of £22,433. He then deducted the unlicensed loose boxes at £1,350 (£337.50 each), the horse walker at £400 (8 compartments at £50 each) and the lunge ring at £1,020. This left £19,633 as the value for the stables in the American Barn. Since there are 22, the value for each was £894, exactly double Mr Marriott's revised analysis.
24. I prefer the simplicity of Mr Marriott's equated rent methodology. He had provided a copy of the lease as part of his evidence and it was relatively easy to resolve the areas of dispute. The lease stipulates that the landlord pays the insurance costs of the premises, and the tenant pays any excess should the need arise. In any given year a claim might not arise and in any case no figure was provided for the excess. The landlord is responsible for repairs to the structure and exterior of the equipment as well as some items of maintenance such as hedge cutting. The tenant is responsible for external decoration but the extent to which this will be an issue in a 5 year lease is unclear. As far as common items are concerned, the lease also states that the tenant shall pay the landlord a 'fair proportion of all costs payable by the landlord for the maintenance, repair, lighting, cleaning and renewal of all service media, structures and other items used or capable of being used by the property in common with the other property.' This seems to me to be a service charge in all but name and as such should not fall to be included in the analysis.
25. Similarly, access to the gallops is by means of a separate licence and if it was intended that the costs were shared, I would have expected the lease to have been explicit on this point. Mr Marriott had included the horse walker in his allowance of 7.5% but it was not entirely

clear what proportion was allocated. His approach appeared inconsistent as he included the horse walker elsewhere in the devaluation. I accept Mr Marriott's treatment of the costs of the Head Lad at £5,000 per annum as it was verified by Mr Harris and the yard would not have gained a licence without this service. Access to grazing is also a prerequisite of a properly run yard. In this case it was available at no cost to the appellant and since it is outside the demise, I choose to reflect its presence in the stable value. The parties had both simply deducted the adjustments from the net rent. Since the objective was to put the rent on a basis that reflected the assumptions in the statutory definition of rateable value it would have been more appropriate to divide the net rent by 1.085, as that would have properly accounted for the items requiring adjustment and would have produced a rent in terms of rateable value of £17,972 per annum. However, for the purposes of analysis I will follow the parties' methodology.

The first element of the devaluation is therefore as follows:

| | |
|--|---------|
| Average rent | £24,500 |
| Less Head Lad costs | -£5,000 |
| Less landlord's repairing liability (5%) | -£975 |
| Less landlord's insurance costs (3.5%) | -£683 |
| Adjusted rent | £17,842 |

26. I now turn to the remaining parts of the devaluation starting with the horse walker. Mr Albert said that there was agreement elsewhere in the country that for rating purposes walkers were to be valued at £50 per compartment. Mr Marriott's approach was to treat the walker as if it were an item of plant and machinery, but he made no adjustment to bring the cost in to 2015 terms or any allowance for age and obsolescence. I prefer Mr Albert's approach; if the methodology is agreed elsewhere, I see no reason to depart from it. The lunge ring is agreed at £1,020. The four unlicensed loose boxes were valued at 50% of full value by Mr Marriott and at £337.50 each by Mr Albert, the latter having regard to the normal stable tone. I will adopt Mr Marriott's approach, and this results in an 'in terms of the licenced stables' figure of 24.

The second part of the devaluation is as follows:

| | |
|-------------------|----------------|
| Adjusted rent | £17,842 |
| Less horse walker | -£400 |
| Less lunge ring | <u>-£1,020</u> |
| | £16,422 |
| Stable value | £684 |

27. The resultant devaluation represents the value of a licenced stable with adjacent grazing and access to a gallops for which the trainer pays separately. The rent was effective from the end of October 2018 and neither expert sought to make any adjustment to reflect the possibility of changes in rental values since the AVD.

28. I will now examine the leasehold comparables starting with the closest in locational terms.

The Beeches, Sutton Veny, Warminster, Wiltshire BA12 7BY

29. The Beeches is situated adjacent to the property and the two sites share a common access road. It is a very much larger facility than the property and included a total of 71 stables in 5 American barns as well as residential accommodation, 2 horse walkers, a lunge ring, field shelters, a manège, linear and circular gallops which are shared with the appeal property, a washdown facility and paddocks. It was let in 2018 together with the property which is the subject of this appeal. For the purposes of devaluing the rent, the various elements included in the Lower Barn demise are taken into account.
30. It was let on a 5 year lease from 30 October 2018 at an initial rent of £50,000 per annum for the first year and £65,000 per annum for the second and third years. There is a rent review at the end of the third year to the greater of the passing rent or the open market rent. For his analysis Mr Marriott had adopted the average rent £62,000 per annum since the rent for years 4 and 5 could not be lower than the passing rent for years 2 and 3. He considered the lease to be effectively internally repairing and he noted that the landlord also maintained the surface and drainage of the gallops. Mr Marriott made an allowance of £5,000 per annum for this responsibility and a 5% adjustment for external repairs. This resulted in a net rent of £53,900 per annum. He also made an allowance of 5% for restrictions to the use of the gallops during the shooting season although he later admitted that this was not the hinderance he first thought it to be. After allowing for the value of various facilities on site such as horse walkers, gallops and paddocks, his final adjustment was for quantum at 17.5% and he said this figure was based on an agreed scale with the VOA. His analysis equated to a value for each stable of £462.00 exclusive of any quantum allowance.
31. Mr Albert disputed many of Mr Marriott's conclusions about the terms of the lease and had again applied a time weighted approach to the calculation of the stepped rent resulting in a figure of £59,539 per annum. Mr Albert noted that the lease stated that maintenance of the gallops was the responsibility of the tenant and contained a stipulation that involved 'rotovating, strimming and applying weedkiller on a regular basis and generally to maintain the gallops in accordance with good equine husbandry'. He therefore considered it unnecessary to make an allowance for the costs of this maintenance in his analysis. He also noted that a circular gallops was also included in the demise but it was in poor condition. Nevertheless, he considered that it had been repaired thereby proving that it was economic to do so. Accordingly, he thought that it should be included in his analysis.
32. He also disputed Mr Marriott's conclusions about the amount of residential accommodation in the demise. He had sought confirmation from Mr Harris who had stated that a two bedroomed house and a three bedroomed hostel were included.
33. Mr Albert went on to point out that the demise included a small area of grazing but additional areas were held on a separate licence. He also considered that the outdoor arena or manège should be valued at £1.25 per m² to take account of quantum and the larger stables over 20 m² in area should be uplifted at 110% of the basic stable value. He made no adjustment for quantum to reflect the overall size of the property, stating that it was already reflected in the

rent and that to reflect it in his analysis would result in double counting. Mr Harris confirmed that he had constructed the covered washdown at his own expense. His preferred analysis culminated in £388 per stable. Neither expert attempted an adjustment for rental movements from the AVD to the date the rent was agreed.

34. It was again disappointing to find that the experts had been unable to agree much of the factual detail or how the rent ought to be devalued. Starting with the rent, I see no reason to take the analysis beyond the date of the rent review and a simple average of the first three years rents results in a figure of £60,000 per annum. Since the landlord's repairing liability extends to the whole property, I deduct 5% for it before making any other adjustments and the result is a net rent of £57,143.
35. The gallops were contentious. There is no disagreement that the 8 furlong linear, all weather gallops and the neglected 8 furlong circular gallops are both included in the demise. As far as the former is concerned, Mr Marriott adduced nothing in support of his adopted cost of £5,000 per annum. The landlord's repairing obligation extends to repair of the gallops drainage and surface treatment and the extent to which this aspect might be covered by the 5% repairing adjustment was not explored by either expert. Mr Marriott's assessment of £5,000 per annum appears excessive to me and Mr Albert had allowed nothing at all. I adopt a figure of £2,500 per annum.
36. The experts agree on the rental value of the trainer's house at £8,700 per annum and I accept Mr Albert's value on the remaining residential parts as their extent was confirmed by Mr Harris. There is no dispute as to the unit value of £100 per room per calendar month. Turning to the grazing which to a large extent is held on a separate licence, I prefer Mr Albert's approach of including only the 1.74 acres that is actually in the demise. This should be valued at £200 per acre in line with established practice.
37. I have already alluded to the horse walkers in my comments about the Lower Barn analysis and therefore take the 10 and 8 compartment examples in the demise at £500 and £400 respectively. I noted the condition of the circular gallops on my visit and it was clearly not in use. Mr Albert was mistaken in his assertion that it had been repaired and evidence supplied by Mr Marriott showed it to be in need of significant works. I have no evidence regarding the cost of putting it in to repair, but the yard is clearly able to function without it and I therefore exclude it from my analysis.
38. The washdown was a tenant's improvement carried out by Mr Harris and I prefer Mr Albert's approach to the valuation of the arena.
39. Finally, the question of an allowance for quantum needs to be addressed. Mr Marriott had made an allowance of 17.5%, a figure Mr Albert considered appropriate for a 70 stable yard. Mr Albert is wrong in his conclusion that since the rent reflects quantum it need not form part of the analysis. His analysis reflects quantum whereas Mr Marriott's isolates the quantum effect allowing comparison with smaller yards. Applying Mr Marriott's methodology to the adjusted components I arrive at a value per stable without quantum of £595.00. As with the Lower Barn at The Beeches this value represents the value with the paddocks reflected as at October 2018.

Major's Farm, Whitsbury, Fordingbridge, Hampshire SP6 3QB

40. Majors Farm is located about 3.5 miles north west of the town of Fordingbridge and 6.5 miles south of Salisbury. This yard has a more traditional layout than either of the two properties at The Beeches, with 35 individual, brick-built stables arranged around a courtyard. It benefits from a horse walker and turnout grazing. The site contains a significant amount of residential accommodation including a 5 bedroom trainer's house, a bungalow and two hostels containing 4 and 12 beds respectively. Mr Marriott thought that the latter had been converted from storage as a tenant's improvement.
41. The property was let on a 3 year term from 1 February 2013 at a rent of £41,610 per annum. It was unsurprising to find that the experts were again unable to agree the factual aspects of this comparable although they had reached an accord that the tenant was only responsible for internal repairs.
42. The approaches of the experts to the valuation of the residential element were disparate. Mr Marriott had apportioned a total of £25,800 per annum, some 62% of the total rent passing. Mr Albert allocated £41,196 per annum which amounted to virtually the whole rent. This should have led him to the conclusion that his residential values were excessive. Given that neither expert provided any evidence of values of similar residential accommodation I do not propose to undertake a detailed analysis of their approaches, notwithstanding that it formed such a significant part of the rent. The lack of evidence was a noteworthy failing on both their parts and bearing in mind that this property was the only one of the four leasehold comparables that pre-dated the AVD, I would have expected a more rigorous appraisal.
43. For the purposes of arriving at a rate per stable I prefer to use Mr Marriott's residential figures as they are the more realistic of the two. After deducting the horse walker at £300 (6 compartments) and 3.6 acres of grazing at £720 per annum I arrive a value per stable of £351 each. This figure is based on Mr Marriott's calculation of the total number of stables (36.5) and if I adopt Mr Albert's (37.9) the analysis equates to £338 per stable. I am not convinced that Major's Farm is a useful comparable; it is too dissimilar to the appeal property and there are too many question marks over the apportionment of the residential parts and this aspect has a profound effect on the analysis.

Wilsford Stables, Wilsford, Amesbury, Wiltshire SP4 7BL

44. Wilsford Stables is another traditional yard but in this case situated in the village of Wilsford about 6 miles north of Salisbury and 1.75 miles south west of Amesbury. In terms of the number of stables it is close to the property under appeal but that is where the similarities end. Some of the stables are traditional in style and others are within a barn. The site has residential accommodation in the form of a bungalow and two flats, 26 acres of grazing and there is access to a 3.5 furlong gallops. The gallops are situated about 500 meters to the north of the stables and are equipped with a fibre sand surface. The cost of installation was £40,000 with the landlord paying 75% of the cost and the tenant meeting the remainder.
45. The property is held on a 10 year lease from 1 November 2015 at £23,000 per annum on fully repairing and insuring terms. Mr Marriott provided copies of e-mail correspondence

confirming that the lessee, Mr Mullins, had renovated the bungalow and had converted the two flats from rough storage. Mr Mullins also confirmed the acreage of grazing land.

46. Mr Albert believed the landlord to be responsible for external repairs but having read the lease, that is not the case. He also considered that the landlord was responsible for insuring the premises and although he is responsible for securing insurance it is the tenant who pays for it by means of an 'insurance rent'. It is not therefore, appropriate for any deduction to be made from the passing rent for these two items.
47. The experts did not agree on the value of the bungalow, Mr Albert adopting £5,400 per annum and Mr Marriott £4,200 per annum, the latter reflecting the unimproved state in which the property was demised. Mr Albert's approach to the two flats was to reflect their value in the value of the stables whereas Mr Marriott adopted £10 m² as storage value. Similarly, there was no agreement regarding the grazing, Mr Albert disregarding it altogether and Mr Marriott accounting for it at £200 per acre. The gallops proved to be equally contentious, Mr Marriott reflected within his analysis that the landlord had paid 75% of the total cost whereas Mr Albert excluded them on the basis that they were not included within the demise. It is worth noting that the assessment in the Rating List contains an end allowance of 10% for access. At the hearing it was confirmed that this adjustment referred to the remote location of the property rather than to access to the site itself. Having visited the site by car, I have no doubt that it would be equally accessible by a horse lorry and have therefore disregarded it.
48. I conclude that Mr Marriott is correct in relation to the value of the bungalow and that Mr Albert is right about the value of the two flats. This being the case the only deductions from the passing rent are for the bungalow and the grazing land and taken together these amount to £10,000 per annum. The gallops are not included within the demise and are therefore excluded from the analysis. The rent remaining for the stables is £13,000 per annum and the experts have, on this occasion, being able to agree that there are 26 stables to be included within the analysis. The value per stable is therefore £500. I now turn to the final leasehold comparable.

Conkwell Grange Estate, Limpley Stoke, Somerset BA2 7FD

49. This property comprises an extensive range of stable buildings, 105 acres of grazing, a 4.5 furlong gallops, two horse walkers and a manège. It is situated approximately 3 miles southeast of Bath and 0.75 miles northwest of the village of Winsley.
50. It is let on a six year lease from 1 July 2016 on fully repairing terms at a commencing rent of £50,000 per annum for the first year with a reversion to £53,500 per annum for the remainder of the term. On Mr Marriott's methodology the equated rent was £52,030 per annum and Mr Albert's figure was £51,950 per annum. There was no agreement about who paid for insurance, Mr Albert thought it was the tenant and Mr Marriott, the landlord. According to my reading of the lease, it does in fact fall on the tenant.
51. In an appeal characterised by a lack of agreement about the property and most of the comparables I was not in the least surprised to find the experts were some distance apart

when it came to the facts at Conkwell Grange. The primary issue between them was simply the number of stables included in the demise. For the record Mr Marriott stated that there were 108 and Mr Albert based his calculations on 84. Mr Marriott submitted a detailed e-mail from the BHA who are the licensing body for the sport. This showed there to be 108 stables on site when an inspection took place in June 2012. However, it was not readily discernable from the lease whether the demise included the entirety of the licensed stables and on my inspection, it was obvious that further facilities had been developed since the start of the lease which made identification more difficult. Accordingly, I have some doubts about the precise number of stables to be included in the analysis

52. As far as the other elements of the analysis are concerned there is agreement between the experts on the value of 55 acres of the grazing (£11,000 per annum) but not on the remainder. Mr Marriott had used £150 per acre and Mr Albert £100 per acre. They also disagreed about the gallops, Mr Albert relied upon his tone of £610 per furlong and Mr Marriott preferred a figure of £478 per furlong deduced from the Tribunal's decision in *Hobbs v Gidman (VO)* (2017) UKUT 63 (LC) (P D McCrea FRICS FCI Arb). This decision related to the 2010 List.
53. The analysis is therefore not straightforward. I start with the rent and for the sake of consistency I will take an average, arriving at a figure of £52,917 per annum. I will split the difference between the experts on the second area of grazing and adopt the 2017 tone for the gallops. The horse walkers should be taken at £50 per compartment (£500 for the pair) and the manège is agreed at £858 per annum. On this basis using Mr Marriott's stable numbers I arrive at a figure of £300 per stable, and adopting Mr Albert's total, £382.50 per stable. These values reflect an allowance for quantum which Mr Marriott identified at 25% on the agreed scale. The values adjusted for quantum are £456 and £580 per stable respectively. The existing assessment has an allowance for access of 10% but bearing in mind that racing yards tend to be in rural locations the arrangements at Conkwell did not appear, to me at least, to be materially worse than any of the other yards.
54. I consider it appropriate at this point to pause and summarise the results of the leasehold analysis for racing yards within 20 miles of the property. It is worth noting that the Lower Barn and The Beeches figures are for American Barns whereas the remainder are expressed in terms of traditional stables. To adjust for this factor, I take the view that it is necessary to add between 5 and 10% to American Barn values. The values below do not include this addition.

| Property | Rent £ p.a. | Rent date | Devaluation £ per stable (Marriott/Albert stable numbers where necessary) |
|-----------------|--------------------|------------------|--|
| Lower Barn | 24,500 | October 2018 | £684 |
| The Beeches | 60,000 | October 2018 | £595 |
| Major's Farm | 41,610 | February 2013 | £351/£338 |

| | | | |
|----------|--------|---------------|-----------|
| Wilsford | 23,000 | November 2015 | £500 |
| Conkwell | 52,916 | July 2016 | £456/£580 |

55. Mr Marriott and Mr Albert both included within their evidence details of a letting at DML Racing at Rock Farm, Rock Cross, Rock, Kidderminster, Worcs. DY14 9SA, a racing yard some 81 miles north (110 miles via the M5 Motorway) of the property. This property was let on FRI terms with effect from March 2017 on a 5 year term at a rent of £66,000 per annum. According to Mr Marriott it comprises a modern, high quality, purpose built racing stables consisting of a series of inter-connecting American barns. A letter from the landlord confirmed that the site includes 57 stables, 2 horse walkers, an indoor school, 24 acres of turnout paddocks, a four-bedroom trainer's house, and the shared use of the adjacent gallops for which the landlord is responsible for the upkeep. In his expert report Mr Marriott said that the 2017 List rating assessment had been reduced from rateable value £52,500 to rateable value £40,250 which corresponded to a value per stable of £489.50. However, in his detailed analysis he arrived at a figure of £470 per stable. Mr Albert supplied an analysis of an interim assessment of rateable value £43,750 which referred to a figure of £550 per stable.

Comparable settlements

56. The experts submitted details of a further 12 properties where agreement had been reached with agents representing the occupiers. The locations varied considerably, from Staffordshire to West Wales but the majority were in the Midlands. The agreed values largely conformed to the tone of £550 per stable described by Mr Albert (see paragraph 13). I see no point in listing them individually as I have been supplied with insufficient detail to enable a meaningful comparison and I have not inspected any of them. However, Jackdaws Castle, Ford, Temple Guiting, Cheltenham, Glos. GL54 5XU was particularly relied upon by Mr Albert in coming to his conclusions and it is therefore appropriate to examine this property in some detail.
57. The assessment for this property has been agreed by Mr Marriott. He described it as a large, purpose-built yard of 120 stables together with an equine swimming pool, large indoor school, all-weather and grass gallops, covered horse walkers and accommodation for entertaining owners and housing staff. It is located close to Cheltenham which Mr Marriott said was the centre of National Hunt racing in both the United Kingdom and Ireland. In agreeing £630 per stable he expressed the view that it was one of the premier training establishments in the country and would command a rent equivalent to stables in Lambourn. He questioned the rationale of using Jackdaw's Castle as a comparable for the property. In his view the two were in completely different markets, one attracting established trainers with high-quality horses and wealthy owners, the other being of interest to a small trainer, probably just starting up, who would lack both funds and horses.
58. Mr Albert on the other hand, whilst not denying that Jackdaws Castle had a range of facilities, pointed out that he viewed the tone as being purely location based and the additional features are simply separate additions to the valuation. In his view features such

as equine pools were not essential for racing yards and were merely an added benefit that made a site more convenient. He also considered the American Barn at Jackdaw's Castle to be a sub-standard building, being very long with low eaves and lacking in ventilation.

59. Mr Albert put particular emphasis on the decision of the Lands Tribunal (Mr J H Emlyn Jones FRICS) in *Lotus and Delta Ltd v Culverwell (VO)* [1976] RA 141 and the guidance it contained was most recently referred to in detail by the Tribunal (at paragraph 31) in *Flight Centre (UK) Limited v Mr A Ricketts (VO)* [2021] UKUT 0315 (LC). Taking his lead from the decision, Mr Albert adopted the rent at the property itself as his starting point but failed to provide a narrative explaining his rationale in assessing the other comparables and the weight he attributed to them. In concluding that the appropriate value at the property was £630 per stable he said that he had particular regard to Jackdaw's Castle and had used 'valuer judgement' to adjust his analysis of the passing rent on the property itself. The absence of a convincing explanation of how, having started at an analysis of £894 per stable, he arrived at a value some 30% lower, did not inspire confidence that Mr Albert's approach was correct.

Discussion and Determination

60. It is clear from the evidence adduced by the experts that racing yards are as diverse in the features that each offers as they are in terms of location. Some sites benefit from comprehensive facilities whilst others rely on provision nearby and the valuer is required to differentiate using rents that often include significant residential elements. The only constants are that each has stables and it would appear, horse walking apparatus.
61. The rental evidence in this case is not particularly useful. Only one of the rents was set before the AVD and the rent on the property itself was agreed more than three years after. Most of the rents rely to some degree on subjective assessments of the value of components which are either exempt or do not form part of the hereditament.
62. In the hypothetical world of non-domestic rating the valuer is required to utilise values based on the market in April 2015 but applied to the physical circumstances at the material day. The rent paid for the property, having been set more than 3 years after the valuation date, has little utility in my view. The same is true of The Beeches. Putting myself in the shoes of the prospective tenant at the AVD the only information available to inform my bid would be the rent at Major's Farm. I have already noted that this rent requires significant adjustment to take account of the residential accommodation, a process the experts found difficult to reconcile. Taking this factor in to account and noting that the rent was set 2 years prior to the AVD I attach little weight to it. The property at Conkwell is much larger than the others and there is no agreement between the experts as to exactly what was included in the demise. For these reasons, in my view it carries no weight.
63. The approach to the valuation of racing yards preferred by the respondent is to adopt a tone for the stables based wholly on location. This seems to have resulted in the use of a figure of £550 per stable across a swathe of the Midlands including Staffordshire, Herefordshire and Worcestershire. The approach elsewhere appears more nuanced with a tonal range of £525 to £675 for locations other than Mr Marriott's 'top racing centres'. Nothing can be drawn from any other assessments in Wiltshire as none of them have been determined or

agreed. It seems sensible therefore to look to the nearest counties and these are Somerset, where the tone is £525-£575 (the latter figure relates to sites near the border with Wiltshire), Hampshire which has a tone of £675 and Dorset where it is £550. I do not have any information to confirm how many assessments have been settled and I can therefore only adopt Mr Albert's figures at face value. However, I note that Mr Marriott did not dispute them.

64. The property lies only 6 miles from the border with Somerset at its nearest point. I can see no reason why values should conform to a pattern based on county boundaries and I therefore conclude that in tone terms, at least, the prevailing values in the surrounding area indicate that a figure in the range of £525 to £575 would be appropriate for the property. I note, and I put no more emphasis on it than that, a degree of correlation with the November 2015 rent at Wilsford which I analysed at £500 per stable.
65. It seems to me that a sensible starting point for the property would be a value of £550 per stable. I note that it lacks its own gallops and grazing but these are available on an adjacent site. Neither party has identified the lack of these features within the demise as a disadvantage. I think it is appropriate to adjust the value by 5% to reflect the fact that the stables are in an American Barn, albeit a modern one of reasonable specification. The result is a stable value of £522.50.
66. There are two features that set this property apart from the others that I inspected; firstly, a lack of residential accommodation on site in which to house a staff member overnight. Secondly, that the access is over land in the occupation of the neighbouring yard. Neither expert made a specific allowance for the first issue. It seems to me that it would be a significant factor in the mind of a prospective tenant and would mean that they are either reliant on the co-operation and assistance of the neighbour or would need to provide the accommodation themselves if he or she is to be granted a training licence. I note that the arrangement with the landlord is a sum of £5,000 per annum but that includes the Head Lad's services rather than being a payment purely for the use of property. In my judgement it is appropriate to adopt an allowance of 10% for the first factor and 2.5% for the second.
67. The valuation is therefore as follows:

| Description | Units (No or m²) | Rate (per unit or m²) | Value |
|-----------------------------|------------------------------------|---|--------------|
| American Barn | 22 | £522.50 | £11,495 |
| Loose boxes | 4 | £261.25 | £1,045 |
| Horse walker | 8 | £50.00 | £400 |
| Lunge ring | 255 | £4.00 | £1,020 |
| | | Sub Total | £13,960 |
| Less for disabilities 12.5% | | | £1,745 |
| | | Total | £12,215 |
| | | Say | £12,200 |

68. Mr Albert sought an assessment higher than the Rating List entry. There was no cross appeal by the respondent, and I heard no argument from either party concerning the ability or otherwise of the Tribunal to determine an increased assessment in those circumstances. In the event my determination is at a level lower than the prevailing assessment.
69. The appeal was heard under the Tribunal's simplified procedure under which costs are not normally awarded unless either party has behaved unreasonably, or the circumstances are in some other respect exceptional. I do not consider that either party acted unreasonably or that there are any such exceptional circumstances. I therefore make no order as to costs.

**Mark Higgin FRICS FIRRV
Member**

24 November 2022

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.