

Economy, Infrastructure and Skills Committee  
Russell George AM, Chair

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Rosemoor, 2 November 2016

Dear members of the Economy, Infrastructure and Skills Committee,

Thank you for the opportunity to be present at your Business Breakfast Meeting on 5 October 2016. As that was only a short session, we asked you if we could send additional information afterwards, as we thought (think) the subject of business rates is a very important one for small businesses such as ours. You said you would be more than happy to receive as much information as possible.

We at Rosemoor Country Cottages and Nature Reserve have more experience of Business Rates and the process of appealing them than we would like: we had to appeal our 2010 Valuation, and took that all the way to the Lands Tribunal.

***A short history***

We took over Rosemoor Country Cottages in 1998 and our predecessors had been running it as a holiday complex for almost 25 years before that. It is an old Victorian estate that would have gone to rack and ruin had it not been converted into holiday accommodation in the seventies. It is a place that needs a lot of maintenance, as it concerns old buildings in (soft) red sandstone.

Despite the fall out of the Sea Empress (just before our time) and the Foot and Mouth outbreak, we were doing OK, keeping up as much as possible with changing market conditions and changing customer requirements. Then the recession of 2008 hit, topped off by the Valuation Office Agency (VOA) increasing the Rateable Value (RV) for our place by more than 100%, from £5,400 to £13,000. In one fell swoop, we not only had to deal with a decrease in bookings but also with a substantial amount of extra outgoings, not helped by the fact that we were no longer eligible for small business rates relief.

The years that followed were the worst years we have ever had at Rosemoor. We were used to having next to no income during the winter months (eating into our built up reserves as during those months maintenance project costs are high) but we now encountered the new situation that cash flow in the summer months was becoming equally precarious. This meant that building up a reserve for continuous maintenance was almost impossible. Business rates were THE costs that drove us almost over the edge.

### ***Appealing business rates***

When we decided to try to get our business rates changed, we followed the predetermined procedure.

#### *1. Discussion with the local Valuation Officer (VO)*

It proved difficult to arrange a meeting with the VO, and once eventually arranged, it proved wholly unproductive. A token reduction was offered – peanuts really – to £11,750.

#### *2. Appeal to the local Valuation Tribunal (VT)*

We provided the VO with the outline of our case, as required by the Valuation Tribunal for Wales publication “Non-Domestic Rating List 2010 A guide to our Notice of Hearing”. We did not get anything in writing or otherwise from the VO before the hearing took place.

At the hearing the VO produced a file stating his case, none of which we had seen before – in contravention of the relevant rules (page 2 and 3 of the aforementioned guide). This was not deemed to be such by the VT, which thereby allowed us to be confronted with information we had not had a chance to study or prepare ourselves for beforehand. (We sat on the public gallery while somebody else’s case was heard just before ours, and the same thing happened to this lady defending her business case – it was heart breaking to watch her being overwhelmed.)

Our case was heard on the 3<sup>rd</sup> of October 2013 and, after several months of delay, we finally got the VT decision. They dismissed our case out of hand. This was at the end of January 2014.

At this point we had to think long and hard about our next step:

- As a small business owner one is up against the full might of the VOA – a large government agency whose daily work is dealing with this kind of thing;
- The subject matter is extremely complicated;
- Professional/legal help is available, but essentially out of financial reach for small businesses, as the sums involved, though vital and very big for us, are far too small to warrant the expense – without any guarantee of success;
- Recent changes to the law allow VOA to counterclaim *increases* in the RV appealed, greatly increasing the risk associated with the appeal for appellants.

As not appealing the VT’s decision would mean slow but certain death of the business we decided we simply had to take our case to the Lands Tribunal.

#### *3. Appeal to the Lands Tribunal*

This involved presenting the Tribunal with a complete and fully fleshed out Statement of Case, within 28 days of the VT decision to be appealed.

We had no money to hire a barrister or any other form of legal advice / support. We would need to do it ourselves.

Writing the Statement of Case, and writing up the documentation for various follow-up steps in the preparation for the hearing took almost all of our time for the following four months.

At the hearing in July 2014, which took a full day, we had to confront the VO defending the VOA’s position (incidentally, the lead officer for self catering for

Wales) – one of the most stressful situations we have ever encountered. The next day the Judge came out for a site visit, so he could get a feel for our business, our premises and our work.

### ***Appeal: the final outcome***

In September 2014, the Lands Tribunal ruled in our favour, and very decisively so. We managed to convince the judge that our Rateable Value should be reduced from £11,750 to £6,000. This reduction shows that the increases applied to the whole self catering sector by the Valuation Office Agency for the 2010 List (in our case from £5,400 to £13,000 originally, then reduced to £11,750 – generally in line with average increases for the sector) were highly questionable. The reasoning of the Tribunal<sup>1</sup> in our decision was such that it would most likely apply to many more self catering businesses, should they (have) appeal(ed).

Unfortunately, not many businesses do appeal, and very few appellants take their case all the way to the Lands Tribunal. (In Wales appeals to the Lands Tribunal against the 2010 List for self catering have been very few: just two or three.)

This is very likely related to size of business: having to face the extreme complexity of the matter, and the high /unaffordable cost of professional legal advice / representation – without any guarantee of success.

We would not be surprised if the VOA relies on this in its drive to increase RVs for self catering in Wales.

### ***The future, 2017 onwards***

This drive is reflected in average increases for the 2017 List for self catering businesses in Wales upwards of 40%, and very often more than 70%. To illustrate: our RV for 2017 has been determined at £11,500; i.e. almost a doubling again.

RV increases could perhaps be justified if business and the sector would have seen a strong and sustained upturn between 2008 and 2015 (the years taken as reference for the compilation of the 2010 and 2017 Lists respectively).

This is clearly not the case. The 2008 recession bit very strongly from 2009 onwards (there is always a delay, both up and down, in the way national indicators show on the level of individual self catering businesses). Most self catering accommodation providers have seen strong dips, and have only recently seen business return to levels on a par with, but often still below, or only very little above 2008.

We are a case in point: our 2008 turnover (ex VAT, as we were VAT registered back then) was approximately £73,000, i.e. £86,000 including VAT.

Our 2015 turnover including VAT (as we were forced to deregister for VAT because of lack of sufficient turnover/income) was appr. £ 72,000.

This was not through lack of trying; the market has become very much more difficult, for a great variety of reasons, completely outside of our control.

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<sup>1</sup> Should you wish to find out more about our case, you can find the decision on the Lands Tribunal website, with reference RA/2014/15.

In all likelihood, it will mean that we, once again, have to appeal this rating, something our business can definitely do without. We never expected to have to go to court every five years or so, just to defend ourselves against unrealistic tax demands.

***What can we say as a result of our experiences with Business Rates Revaluations and Appeals?***

The appeals process is generally stacked against small businesses appealing. This shows itself in two ways.

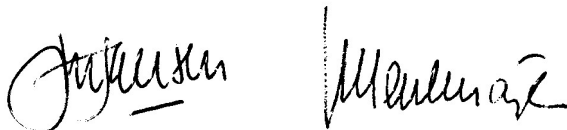
In our experience, and from studying large numbers of decisions of other cases, the Local Valuation Tribunal (the first appeals level) is virtually incapable or unwilling to go against the Valuation Officer, ever. They merely check whether the appealed RV is materially different from that of competitor businesses, and if not, the appeal is denied, no matter how well argued. In other words, the Local Valuation Tribunal does not (want to) or cannot judge cases on their true merits, if it should mean querying the validity of the approach taken by the VOA.

The second appeals level is a hair-raising process for small businesses. It either costs vast sums of money for professional representation, or requires quite unusual levels of knowledge on the part of the appellants themselves.

We sincerely hope you are able to use our experience to highlight the difficulty and heartache business rates can (and do!) cause small businesses such as ours in general, and Welsh self catering businesses in particular. We hope this will eventually lead to a situation where we (and many more) do not have to fear the day the new lists are being published.

We are happy to speak to you or give you more information should you wish so.

Yours sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Jacqui Janssen' and the signature on the right is 'Jan (John) Meulendijk'. Both are written in a cursive, flowing style.

Jacqui Janssen & Jan (John) Meulendijk

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