

NON-DOMESTIC RATES HIGHLAND DEER FOREST APPEALS

This Information Sheet is aimed at those who have non-domestic rates cases cited hearing with the Highland Valuation Appeal Committee on 4th December 2018.

The full text of the law relating to the conduct of appeals is contained in the Valuation Appeal Committee (procedure in Appeals under Valuation Acts) (Scotland) Regulations 1995 as amended.

There are currently 281 appeal cases for Highland Deer Forests listed for hearing on 4th December. <http://hwivap.uk/wp-content/uploads/2018/08/Appeal-Citation-List-Website-Updated-16.8.18.pdf>

Background to the rates reintroduction can be found in Briefing Note L&T09.

It is worth reading the Assessor's Practice Note alongside the below. This can be found on the Scottish Assessors Association website https://www.saa.gov.uk/wp-content/uploads/2017/09/Shooting-Rights-Deer-Forests_R2017_MPC35.pdf

Procedure

The first step is to ask the Assessor for a Summary Valuation – this will show details of how your valuation was calculated. Check the area is correct and the appropriate predominant land type (as per the Practice Note) has been applied. Check they have not accounted for a deer larder if you do not have a deer larder.

Arrange a meeting to discuss the case with the Assessor to ensure you understand how the valuation was made and check all the facts are correct.

Appellants can negotiate, come to an agreement with the Assessor and not proceed the case to a hearing. If an agreement is reached the valuation in the Roll will be adjusted appropriately and no further action is required. Agreed cases may be used as evidence against those who continue with the appeal hearing.

If no agreement can be reached the case will be heard by the Local Valuation Appeal Committee (LVAC) as arranged. An alternative approach is to apply to the LVAC for the appeal to go straight to the Lands Tribunal. Only complex cases, on a point of law, or cases which affect the whole of the country can be referred without going to the LVAC first – these Deer Forest appeals would likely qualify. If the Assessor agrees to the immediate referral the LVAC cannot object. However application and associated professional costs will come into play. If felt applicable, perhaps best shared with other appellants?

Allowances/Adjustments

The Assessors have not made adjustments of the base rate/ha to account for regional or local circumstances. As such the entry will be assumed to have 100% sporting potential. The below list is not exhaustive but aims to provide a starting point to think about the restrictions compared to the average that you may have. Consideration, and where possible evidence, of how these impact the value will be required.

Location (is it particularly remote or difficult to reach?)
Areas of bog, water, very high/steep land which should be discounted.
Activity of neighbours
Presence of Munro or heavily used footpaths
Location of residential properties
Wind Turbines
Crofters

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Environmental designations or agreements which restrict shooting

The Act enables the Assessor to take deer management in account when making their valuation (commonly referred to as the 8ZA Consideration). In practice, this has not been done. It is worth arguing that a discount should be made due to the obligations/inflexibility that deer management obligations brings. The exact % range for this allowance remains still uncertain but the potential will no doubt vary region to region and entry to entry.

Key deadlines

45 days before – 20th October – Proposed alternative valuation formally submitted along with supporting evidence. Also confirmation if you will to attend the LVAC Hearing in the absence of any agreement being reached in advance. This will normally instigate negotiations with the Assessor.

35 days before hearing - 30th October – Deadline for submissions to Assessor of FINAL valuation appeal grounds. State clearly why you do not believe the valuation is correct and specify the valuation you believe to be correct. This will also be the stage at which any facts that can be agreed between the parties will be confirmed. Within 28 days of receiving this and no later than 14 days before the hearing the Assessor must respond with statement of grounds on which the valuation is based.

21 days before hearing - 13th November - Appellant must have submitted all and any final comparable evidence they wish to use in the hearing to Assessor. Appellant can also request Assessor supplies them with the comparables they plan to use in the hearing. If the Assessor sends you evidence first (at least 14 days before the hearing), and asks you for your evidence, you must submit this at least 14 days before the hearing.

4th December – LVAC hearing date

Although the cases are cited for 4th December, the Assessor will likely negotiate and agree many cases before the Hearing. Cited parties can also ask the LVAC for a Continuation allowing extra time to negotiate with the Assessor. Parties must ask for a Continuation at least 14 days prior to the Hearing date. If both the appellant and Assessor agree more time is required the LVAC cannot reject this application.

Professional Advice

It is common for appellants to appoint professional advisers to assist with the submissions, negotiations and to represent them at the Hearing. It is also now common place for the Assessor to have appointed Queens Counsel to formally present the case as this will principally be based on rating law/arguments. As such it is common place for the appellant(s) to also have legal representation. If you do not already have a professional adviser you may want to consider contacting one of the below:

Galbraith
Savills
Goldsmith
Peter Graham and Associates
Strutt & Parker
Bidwells
Bell Ingram
Davidson & Robertson
Bowlts
Managed Estates