THE VALUATION TRIBUNAL FOR ENGLAND

Non Domestic Rating Appeal; 2010 Rating List; School and Premises; Effective date property should be placed in rating list; new entry; The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 S.I. 2268; Regulation 14; Decisions - Appeal dismissed

Re: Cambridge Steiner School, Hinton Road, Fulbourn, Cambridge, CB21 5DZ

APPEAL NO: 053033434154/282N10

BETWEEN: Cambridge Steiner School Appellant

And

Valuation Officer Respondent

PANEL: Mr R White (Senior Member)
Miss E F Blois

CLERK: Mr G Wayman

REMOTE HEARING: 25 February 2021

APPEARANCES:

Mr R Nobles representing the appellant
The Respondent Valuation Officer was represented by Miss V Grant

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Summary of Decision

1. Appeal Dismissed

Introduction

2. The appeal arose following a proposal dated 20 May 2016 made by Tara Livermore on behalf of Cambridge Steiner School. The proposal stated the

following: ‘We wish to appeal against the backdated business rates invoices we received in April 2016 for the period 1 April 2010 – 31 March 2016 on the basis that the local authority is required to bill for business rates "as soon as practicable" under The Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989. We do not feel that this has been done. We understand that invoices have not been raised until now because our school did not show on your system until recently due to the previous occupants and/or that we were included as part of the Ida Darwin site. As a result, we were not visited for revaluation in 2010. Had this visit occurred, we would have been invoiced annually from there on. Therefore we do not consider that backdating the invoices now is a reasonable course of action with effect from: 1 April 2010’.

3. Agreement between the Valuation Officer (VO) and the appellant’s representative on this proposal had not been possible and the matter was therefore referred to the Valuation Tribunal (VT) as appeals under Regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeal) (England) Regulations 2009 SI 2268.

4. The subject property is an independent school for children aged 2 years to 14 years. It is situated on the outskirts of Cambridge in the village of Fulbourn.

5. The panel was informed that the subject property was a school first in use by Cambridge Steiner School in 2008 as an independent school. The school had at no point had been entered into the 2005 rating list. Prior to the occupation by the Cambridge Steiner School, the property had been considered exempt as a property used by disabled persons. As an exempt property it had no entry in the rating list. The billing authority informed the Valuation Officer (VO) of the change in occupation on 23 October 2015. The property was inspected and entered into the 2010 rating list with the list updated on the 15 March 2016 and the notice was served on 26 March 2016. As a new list entry to the rating list the effective date used was 1 April 2010.

6. The VO’s argument was that the date the circumstances first arose was 2008, prior to the start of the 2010 list. At the point of making the rating list entry the 2005 list was closed and no amendment to the 2005 list was made. At the start of the 2010 list the property was in occupation as an independent school. As a new entry to the 2010 rating list the effective date used is the 1 April 2010.

7. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)(arrangement

for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

8. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

9. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the panel.

Issue

10. The issue in dispute is the date at which the subject property was entered into the rating list. The Valuation Office Agency had used the effective date of 1 April 2010 as the property was a new entry in the 2010 rating list. The Appellant argues the date the list was updated should be used as the correct effective date.

The Legislation

11. Part III of the Local Government Finance Act 1988 (the "Act") makes provision for the payment of a non-domestic rate in respect of non-domestic hereditaments in England. The rateable value of a non-domestic hereditament (used to determine the rate payable) is defined at paragraph 2 of Schedule 6 to the Act.

12. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 S.I. 2268 as amended provide for the making of proposals to alter the rating list and the date on which they take effect. Regulation 14, which prescribes the effective date of alterations, provides–

(1) This regulation has effect in relation to alterations made on or after 1st October 2009 to a list complied on or after 1st April 2005.

[(1A) Paragraphs (2), (2A), (2B) and (6) do not apply in relation to a list complied on or after 1st April 2017.

(1B) Subject to paragraphs (3) to (7), for a list complied on or after 1st April 2017, where an alteration is made to correct any inaccuracy in the list on or after the day on which it is compiled, the alteration shall have effect from the day on which the circumstances giving rise to the alteration first occurred.]

[(2) Subject to paragraphs (2A) to (7), where an alteration is made to correct any inaccuracy in the list on or after the day it is compiled, the alteration shall have effect—

(a) From the day on which the circumstances giving rise to the alteration first occurred, if the alteration is made-

(i) before 1st April 2016 otherwise than to give effect to a proposal;

(ii) in order to give effect to a proposal served on the VO before 1st April 2015;

(iii) on or after 1st April 2016 where the circumstances giving rise to the alteration first occurred on or after 1st April 2015 and the alteration is made otherwise than to give effect to a proposal;

(iv) in order to give effect to a proposal served on the VO on or after 1st April 2015 where the circumstances giving rise to the alteration first occurred on or after that date;

(b) from 1st April 2015 if the circumstances giving rise to the alteration first occurred before that date and the alteration is made on or after 1st April 2016 otherwise than to give effect to a proposal;

(c) from 1st April 2015 if the alteration is made in order to give effect to a proposal served on the VO on or after that date and the circumstances giving rise to the alteration first occurred before that date.]

[(2A) Where—

(a) *an alteration (alteration A) is made on or after1st April 2015 in order to give effect to a proposal made on the ground set out in regulation 4(1)(d) or (f); and*

(b) *he proposal was served on the VO within 6 months of the alteration which gave rise to the proposal (alteration B)*

alteration A shall have effect from the day on which alteration B had effect.

(2B) Where—

(a) an alteration is made in order to give effect to a proposal served on the VO on or after 1st April 2015 which was made on the ground set out in regulation 4(1)(e);

(b) the decision which gave rise to the proposal was made before 1st April 2015; and

(c) the proposal was served on the VO within 6 months of the decision which gave rise to the proposal

the alteration shall have effect from the day on which the circumstances giving rise to it first occurred.]

(3) Subject to paragraph (4), where an alteration is made to give effect to a completion notice, the alteration shall have effect from the day specified in the notice.

(4) Where under Schedule 4A to the Act a different day—

(a) is substituted by a different notice under paragraph 1(3) of that Schedule;

(b) is agreed under paragraph 3 of that Schedule; or

(c) is determined in pursuance of an appeal under paragraph 4 of that Schedule, the alteration shall have effect from the day so substituted, agreed or determined.

(5) Where the day on which the relevant circumstances arose is not reasonably ascertainable—

(a) where the alteration is made to give effect to a proposal, the alteration shall have effect from the day on which the proposal was served on the VO; and

(b) in any other case, the alteration shall have effect from the day on which it is made.

(6) For the purposes of paragraph (5)(a), a proposal which is made under regulation 8(6)(a) shall be deemed to have been served on the VO on the day on which the proposal to which the invalidity notice relates was served.

(7) An alteration made to correct an inaccuracy (other than one which has arisen by reason of an error or default on the part of a ratepayer)—

(a) (in the list on the day it was compiled; or

(b) which arose in the course of making a previous alteration in connection with a matter mentioned in any of paragraphs (2) to (5),

which increases the rateable value shown in the list for the hereditament to which the inaccuracy relates, shall have effect from the day on which the alteration is made.

(8) Where an alteration needs to be made after the first anniversary of the day on which the next list is compiled, it shall have retrospective effect only if it is made to give effect to a proposal.

Decision and reasons

13. The panel is aware that regulation 14 of the Non-Domestic Rating (Alteration of Lists and Appeals)(England) (Amendment) Regulations governs the effective date that should be used when and entry is altered in the rating list.

14. The subject property was previously occupied as a school for disabled persons therefore it was exempt from rating and in line with regulation 42 of the Local Government Finance Act 1988 it was not entered into the rating list.

15. Therefore, after examining both parties' evidence and submissions, the panel found that the entry made by the Valuation Officer on 15 March 2016 was not altering or amending an error on an existing entry. Instead the alteration brought into existence a new entry into the rating list.

16. The panel considered if any exemptions applied as outlined in Reg 14 (3) (5) & (7). However, the panel was informed that no completion notices had been issued, the date the circumstances arose was ascertainable and it was not correcting any inaccuracy increases on an existing assessment. Consequently the panel was satisfied that these regulations did not apply in this case.

17. Therefore, the panel was satisfied that under regulation 14(2) the effective date of entering the subject property in the rating list as a new entry should be the day the circumstances giving rise to the alteration first occurred which was 2008.

18. However, as the 2005 rating list was closed the effective date could not be backdated to 2008. In order to establish the date the subject property should be entered into the list the panel referred to the Non Domestic Rating (alteration of lists and appeals) (England) (Amendment) regulations 2015. These regulations state that a Valuation Office notice served before 1 April 2016 will not have a limited effective date, alterations to the list by Valuation Office Notice made on or after 1 April 2016 will have an effective date limited to 1 April 2015, or the date of the event if this is later. The notice in this case was served on 16 March 2016, prior to 1 April 2016. Therefore the effective was not date restricted in this case thus the subject property could be entered into the rating list with effective from 1 April 2010. Consequently the appeal is dismissed.

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Dated: 8 March 2021