

THE VALUATION TRIBUNAL FOR ENGLAND



2010 rating list; appeal against notice of invalidity; Local Government Finance Act 1988; self-catering holiday unit and premises; validity of proposal; appeal allowed.

RE: Graywood Canvas Cottages, Graywood Farm, East Hoathly, East Sussex, BN8 6QT ("the subject property")

APPEAL NUMBER: 143533864758/285N10

BETWEEN:	Stephanie Wakeham-Dawson	Appellant
	and	
	Dawn Bunyan	Respondent
	(Valuation Officer)	

PANEL: Mr A N Backway (Senior Member)
Dr P A R Thomson

CLERK: Mrs A Sloan

HEARING: Remote hearing No.1 on 26 May 2022

APPEARANCES: Mrs S Wakeham-Dawson (Appellant)
Mr G Smale (Respondent's representative)

Summary of decision

1. Appeal allowed. The panel was satisfied that a proposal to alter the 2010 rating list was validly made.

Introduction

2. Mrs Wakeham-Dawson provided some background to the appeal. She explained that the entry in the rating list concerned two yurts used for a glamping business. They were constructed during April to June 2016 and the business opened on 1 July 2016. The planning permission in place restricted the business operation to between 1 March and 31 October. As the business closed on 31 October 2016, the duration of the first season was 123 days. The appellant argued that, as the subject property was not available for 140 days or more, it should not be rateable for that year.

3. The subject property had been entered into the 2010 rating list with effect from 1 July 2016 and the appellant was notified by a notice issued on 7 June 2017. The appellant contacted the Valuation Officer (VO) to question the entry and the rateable value (RV) was reduced, but the point made regarding the number of days available to let was not addressed. When the appellant tried to address this issue, she was directed to the Check, Challenge, Appeal (CCA) process for the 2017 rating list. The appellant then made a proposal against the 2010 rating list entry in November 2019 and received a notice on 14 November 2019 stating the proposal was invalid. The appellant appealed that decision to the tribunal.
4. Mrs Wakeham-Dawson joined the remote hearing via Microsoft Teams but was unable to switch on her camera. She confirmed that she could see and hear everyone present at the remote hearing and that she was content to proceed on an audio only basis. The panel was satisfied that everybody present at the remote hearing could hear Mrs Wakeham-Dawson clearly and therefore decided to continue and hear the case.
5. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Preliminary issue

6. The appeal had been listed for hearing on two previous occasions but had been postponed for various reasons. It was not clear to the panel whether any evidence exchange, or discussions, had taken place between the parties prior to earlier listings but Mrs Wakeham-Dawson confirmed that she had sent her submission to the VO on 19 April in respect of this hearing but had received no response. The tribunal's standard directions required the appellant to send her statement of case to the VO no later than six weeks before the hearing, so her submission was slightly late, but it appeared no submission was made by the VO until a few days before the hearing.
7. In accordance with *Denton v TH White Ltd* [2014] 1 WLR 3926, the panel found that it must have regard to all of the circumstances of the case, the need for litigation to be conducted efficiently and at proportionate costs, that the failure to grant relief from sanctions may leave an inaccurate entry in the rating list and the need to enforce compliance with the rules, directions and orders of the tribunal. It found that it had enough information in both parties' late submissions to decide the case and did not apply sanctions to either party. The panel therefore admitted all submissions and proceeded to hear the appeal.

Issue

8. The issue before the panel was to determine whether a proposal to alter the 2010 rating list was validly made or not.

Decision and reasons

9. Mr Smale was acting as advocate for the VO in this appeal, having not been involved with the case previously. He apologised for the lack of engagement with the appellant leading to the hearing and provided a brief summary of the VO's position in this matter. He contended that the proposal received on 12 November 2019, seeking a deletion of the subject property from the 2010 list, was out of time. He acknowledged that the appellant had been directed to the CCA process and it had not been made clear to her that there was a separate route to

challenge 2010 rating list entries. Mr Smale stated that a proposal relating to an incorrect valuation or effective date in the 2010 list could only be made before the date on which the next list was compiled, 1 April 2017, or within six months of the date of a notice of alteration, whichever is the later.

10. Mrs Wakeham-Dawson provided a timeline of events with supporting documentation. It was clear to the panel that she had remained in regular contact with the VO throughout but, as a lay appellant, was not familiar with the process for challenging entries in the rating list. The situation was exacerbated by the change in process for the 2017 rating list (CCA) and it was clear there had been some confusion.
11. The panel was aware from a note on the appeal record regarding earlier listings, that the RV for the subject property had been reduced from the original £6,000 to £4,500 with effect from 1 June 2016. The note stated that the Notice of Alteration for that reduction to the RV in the 2010 list was dated 4 October 2017. The appellant confirmed she had received such a notice, but it was not in her submission for this hearing. It was clear to the panel from her submissions that there had been numerous exchanges between the appellant and the VO on the subject of both the 2010 and 2017 rating list and the entries in both lists had been altered as a result.
12. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009/2268) set out when proposals can be made to alter the rating list. Part 2 concerns alteration of local lists and Regulation 5 set out the periods in which proposals may be made for the 2005 and 2010 rating lists as follows –
 - (1) *Subject to paragraph (2), a proposal to alter a list compiled on or after 1st April 2005 may be served on the VO at any time before the day on which the next list is compiled.*
 - (2) *A proposal on the ground set out in -*
 - (a) *Regulation 4(1)(d) or (f) may only be served on the VO before the day on which the next list is compiled or within six months of the date of the alteration, whichever is the later;*
 - (b) *Regulation 4(1)(e) may be served on the VO no later than six months after the day on which the next list is compiled.*
13. The panel concluded that the appellant was challenging the RV in the notice of 4 October 2017 and therefore paragraph 2(a) applied and she could challenge the Notice of Alteration to the 2010 rating list within six months.
14. From the appellant's submissions, the panel could see that there was some confusion around this time and the appellant had disputed the RV on 29 January 2018 using the VO's 2017 list Challenge form. The panel noted that section K provided a statement referring to the situation with the subject property in 2016 and asked that it be considered exempt from business rates. Section E proposed an RV for 2016 as nil and the effective date was left blank because it required a date on or after 1 April 2017. The response from the VO was to reject the form because the Check process had not been completed. Mrs Wakeham-Dawson duly went onto complete the Check and Challenge stage, resulting in a decision notice on 16 January 2019 reducing the RV in the 2017 rating list to nil with effect from 1 April 2017 to 26 April 2018. The challenge decision notes that the notice served by Wealden District Council Building Control department covered an earlier period but stated that it was beyond the scope of the CCA challenge.

15. After receiving the Challenge decision notice in January 2019, Mrs Wakeham-Dawson contacted the VO again on 15 October 2019 raising the issue once more regarding her contention that the subject property should be exempt, or nil rated, from 2016. Again, the response from the VO was to simply state that the 2010 list was closed. On 12 November 2019 a further email was sent asking the VO to accept the email as a proposal to alter the 2010 rating list, which resulted in the issue of the invalidity notice that is the subject of this appeal.
16. After considering all the evidence presented, the panel concluded that the email of 12 November 2019 was too late to be considered a valid proposal to alter the 2010 list. However, the panel was entirely satisfied that the appellant's Challenge lodged on 29 January 2018 was a proposal against the last Notice of Alteration for the 2010 list and was made within six months of receipt. Mrs Wakeham-Dawson is not a professional rating agent but a lay appellant, unfamiliar with the process of seeking alterations to the rating list. She had made her proposal on what she believed to be the correct form, clearly referred to events in 2016 and sought a nil RV for that year. The panel made a finding of fact that the form submitted on 29 January 2018 was a proposal to alter the 2010 list which identified the subject property and what alteration was sought. The fact that the form completed was designed for challenges to the 2017 list should not have prevented the VO from properly considering the content and addressing the issue raised on the 2010 list entry.
17. The panel concluded that a valid proposal was made within six months of the Notice of Alteration sent on 4 October 2017 and sought a reduction to nil RV. The appeal was therefore allowed and the matter was remitted to the VO to consider the substantive issue.

Date: 22 June 2022

Appeal number: 143533864758/285N10

Appeal Rights

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.