

THE VALUATION TRIBUNAL FOR ENGLAND



2010 rating list; appeal against notice of invalidity; Local Government Finance Act 1988; office and premises; validity of proposal; appeal allowed.

RE: 1 Mere Green Road, Sutton Coldfield, West Midlands, B75 5BL ("the subject property")

APPEAL NUMBER: 460534552957/537N10

BETWEEN:	Peter J Bennett	Appellant
	and	
	Dal S Virk	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: Mr P Bennett (Appellant)
Mr M Bennett (Appellant's son)
Mr M Harrington (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. With the agreement of the parties, the panel decided to vary normal procedure and invite the respondent to present his case first as it was felt that this would assist the appellant, who was not professionally represented, and the panel.
3. Mr Harrington provided some background to the appeal. The appellant made a proposal on 17 August 2020 to alter the 2010 rating list by splitting the existing entry for the subject

property, 1 Mere Green Road, into separate assessments. As the 2010 rating list had closed by this date, the proposal was considered invalid.

4. However, 1 Mere Green Road was split into two separate offices in the 2017 rating list and then split again to create three separate hereditaments.
5. Mr Bennett appealed the invalidity notice issued by the Valuation Officer (VO) as he maintained that proposals to alter the 2010 list were made before the list closed.
6. 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

7. The appeal had been listed for hearing previously in August 2021, but a joint application was made to postpone the hearing for an inspection to be carried out. It was not clear to the panel whether any further discussions were conducted, or an inspection carried out, but Mr M Bennett sent a bundle of documents to the Tribunal on 11 May 2022, suggesting a hearing was still required.
8. The tribunal's standard directions required the appellant to send his statement of case to the VO no later than six weeks before the hearing, and the VO to respond no later than four weeks before the hearing date. A joint evidence bundle was then to be provided by the appellant two weeks before the hearing for the panel to consider. In this case, it was not clear to what extent the directions had been complied with, if at all, but both parties had provided late submissions to the Tribunal.
9. 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

10. 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

11. Mr Harrington's brief summary set out the timeline of events regarding 1 Mere Green Road from the VO's perspective. He stated that, as the 2010 list was closed by the time the proposal was received in 2020, it was not possible to alter the entry in the list for the subject property. Therefore, the VO had issued transitional certificates so that the local billing authority (BA), Birmingham City Council, could calculate the appropriate transitional relief for business rates charges relating to the new entries in the 2017 rating list.

12. Mr Bennett provided a bundle of documents, many of which concerned matters for the BA concerning Small Business Rates Relief and enforcement of business rates payable. The panel found that these documents were not relevant to the appeal before it, which was against the VO's invalidity notice. However, the panel did note that the bundle of documents contained some correspondence between the appellant and the VO, including letters dating from before the 2010 rating list was closed. The panel noted that Mr Bennett's covering letter of 11 May 2022 stated that this bundle of documents was sent to both the BA and the VO in 2018 and he sought a split of the entry for 1 Mere Green Road in the 2010 rating list from October 2015.
13. Mr Harrington's position was that he understood the appellant had contacted the BA first and by the time he contacted the VO in 2018, the 2010 rating list had closed. He maintained that the request to split the entry in the 2010 list was received after the 2017 list was in force.
14. The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009/2268) (hereafter referred to as the "ALA Regulations") sets 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.*
15. Of particular note to the panel was a letter dated 28 July 2016 in the appellant's bundle of documents. This letter was addressed to the VOA's office in Birmingham and provided a plan showing the new layout of ground and first floors along with descriptions of use and occupation. The letter asked for a "re-measure and evaluation of the premises by the VOA" as the property had been reconfigured. The bundle of documents also contained an email from the BA dated 25 May 2016 advising the appellant to contact the VOA regarding a split of the property and the panel was satisfied that he did this by letter on 28 July 2016.
16. After considering the evidence, both written and oral, provided by the parties, the panel concluded that a valid proposal to alter the 2010 rating list was made in 2016. It found the appellant and his son to be credible in their testimony and it was clear from the bundle of documents supplied that repeated attempts had been made to address this issue. The appellant is not a professional rating agent and it appeared that there was some confusion at times between the remit of the VO and the BA, but the letter of 28 July 2016 was clearly addressed to the VOA and set out the alterations required. At that date, the 2017 rating list had not yet been compiled so the panel made a finding of fact that the letter of 28 July 2016 was a valid proposal to alter the 2010 rating list. The appeal was therefore allowed and the matter was remitted to the VO to consider the substantive issue.

Date: 22 June 2022

Appeal number: 460534552957/537N10

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.