VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Nightclub; End allowances; Rental evidence; Appeal allowed in part.

RE: Club Couture, 139 Newport Road, Stafford ST16 2EZ

APPEAL NUMBER: CHG100060402

BETWEEN: Couture Leisure Limited — Appellant

And

Daljit Virk (Valuation Officer) — Respondent

PANEL: Mrs A E Fielder (Senior Member)
Mrs C Parkes

CLERK: Ms S Hodgson

ON: 29 October 2020

REMOTE HEARING

Summary of decision

1. Appeal allowed in part. A 15% end allowance is to be applied.

Introduction

2. This was a 2017 rating list appeal. The rateable value (RV) of the appeal hereditament was £76,000 with effect from 1 April 2017. This was a compiled list appeal, so the material day was also 1 April 2017. The challenge stage was completed on 10 March 2020. The appellant sought a reduction in the RV to £47,500.

3. The subject hereditament was a large nightclub located in Stafford. It consisted of three dancefloors and five bars, over two stories. The hereditament measured 1,107.15m^2.

4. 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.

5. 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.

6. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of 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.

Issue

7. The issue for the panel to decide was the correct RV to be ascribed to the assessment.

Evidence and submissions

8. Mr Rabbette for the appellant explained to the panel that the appeal property was subject to two material change of circumstances (MCC) in the 2010 list where end allowances were given for the closure of the university campus in Stafford and the overnight closures of the M6 motorway between junctions 9 and 16. He stated that this appeal was a continuation of the two MCC’s as, in his opinion, in the 2017 list the allowances were not carried forward yet the circumstances remained the same at the material day. Mr Rabbette stated that it was agreed between the parties that the allowances should be continued, however the respondent believed these were already reflected in the rateable value (RV) and Mr Rabbette disagreed with this. He provided location maps and photographs of the appeal property, and graphs to show the effect the university closure and the M6 closure had on the appeal dwelling. Mr Rabbette sought a reduction in RV to £47,500.

9. Mr Byrne for the respondent argued that the allowance given for the university closure had been taken into account in the RV for the 2017 list. He explained that at the antecedent valuation date for the 2017 rating list, 1 April 2015, the university campus had not closed and when it did in 2016, the base rate was reduced from £90psm to £70psm. Mr Byrne said this was not an end allowance in the 2017 list as the campus closure was permanent. He did not believe that the M6 night closures warranted an allowance in the 2017 rating list. Mr Byrne had analysed the data provided by the appellant’s agent and gave a verbal overview of his findings which were the delays from the M6 closures were not relevant to the situation as they were daytime closures or

had only resulted in delays of less than 10 minutes. Mr Byrne sought a dismissal of the appeal and for the current RV of £76,000 to be confirmed.

Decision and reasons

10. The panel heard that the appeal dwelling was located 1.5 miles from the Beaconside campus of the Staffordshire University. It was agreed between the parties that a lot of the custom for the appeal dwelling would have come from students who attended the University and the panel was made aware that an allowance of 22.5% had been granted in the 2010 rating list for the loss of customers which resulted in a reduction in turnover when the campus closed.

11. The Beaconside Campus of the Staffordshire University was closed in June 2016 which was before the 2017 rating list came into force, but after the AVD of 1 April 2015. The appeal dwelling was initially valued at £90psm prior to the campus closing. The respondent advised that when the Valuation Office Agency (VOA) became aware of the change in the physical location at the material date, a reduction was made to the base rate reducing it to £70psm.

12. It is the panel's view that of the comparable rental evidence provided, Fiction's in Stoke-on-Trent was the closest to the appeal dwelling. The panel was satisfied that the difference of £15psm reflected the loss of student population for the appeal property.

13. The panel must value the appeal dwelling as it physically existed at the material day. At the material day for the 2017 rating list, the campus was not in existence. Therefore, the loss of the campus should be reflected by way of reduction to the RV rather than an end allowance.

14. The panel considered the two base rates for the appeal dwelling of £90psm and £70psm and noted that the difference between the two rates was 22.3%. Based on this evidence the panel concluded that an allowance for the closure of the campus was incorporated in the current RV for the appeal dwelling.

15. The panel then reviewed the evidence provided by the parties that related to the overnight closures of the M6 motorway. The panel was persuaded by the evidence of turnover at the appeal dwelling for the Easter period 2017. In 2017 Easter fell on 16 April 2017, 15 days after the material day for the 2017 rating list. The panel was provided with turnover figures from Easter 2012 to Easter 2017:

    Easter 2012 - £113,163.28
    Easter 2013 - £108,032.89
    Easter 2014 - £79,447.98
    Easter 2015 - £75,382.58
    Easter 2016 - £69,947.43
    Easter 2017 - £52,888.61

16. The panel noted that the work on the M6 between junctions 9 and 16 began in October 2013 which is reflected in the reduction of turnover in April 2014. The panel also noted the closure of

the university campus in June 2016 which is reflected in the further reduction of turnover in April 2017.

17. It is the panel's opinion that the reduced turnover in April 2017 is in part due to the closures of the M6 and therefore the present assessment of the appeal dwelling is excessive.

18. In the absence of other evidence, the panel made a finding of fact that the physical circumstances at the material day were no different to what they were in the 2010 rating list where a 15% allowance was agreed. Consequently, the panel awarded a 15% end allowance with effect from 1 April 2017 for the M6 night closures.

19. Therefore, the appeal is allowed in part with an allowance of 15% to be applied for the disruption caused by the M6 night closures and the RV is to be reduced to £64,600, rounded to say £64,500, with effect from 1 April 2017.

Order

20. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (England) Regulations 2009 [SI 2009 No 2269] that the respondent shall alter the 2017 list in respect of Club Couture, 139 Newport Road, Stafford ST16 2EZ within two weeks, to £64,500 after rounding with effect from 1 April 2017.

Date: 23 November 2020

Appeal number: CHG100060402