THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating list appeal; material change in circumstances; refurbishment of subject property; material day; appeal dismissed

Re: 8 Gees Court, London, W1U 1JQ

APPEAL NUMBER: CHG100069083

BETWEEN: Adam Grooming Atelier Ltd Appellant

(represented by Yilmaz Oytun Pakcan)

and

David Jackson Respondent

(Valuation Officer)

PANEL: Mrs A E Fielder (Senior Member)

Mr C J Sanford

CLERK: Mrs A Sloan

REMOTE HEARING: 9 November 2020

ATTENDEES: Mr Y O Pakcan (representative for the Appellant)

Mr C Tawonezvi (representative for the Valuation Officer)

Introduction

1. 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. 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.

2. 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. This hearing was conducted via video conference using Microsoft Teams. Mr Pakcan used video link to attend the hearing and Mr Tawonezvi participated by telephone. The panel was satisfied that both parties were fully able to participate in the hearing.

3. 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.

Background

4. The subject property is a retail unit entered into the 2017 Rating List from 1 April 2017 at a Rateable Value (RV) of £78,000. The Appellant lodged a Challenge to the entry in the list on 18 January 2019 seeking a reduction in RV to nil for the period 30 April 2018 to 27 June 2018 due to works carried out at the property during that time. The Respondent issued a decision on 21 January 2020 stating the proposal was not well founded and the Appellant subsequently lodged the subject appeal with the Tribunal.

Issue

5. The issue for the panel to determine was whether the works carried out at the subject property between 30 April 2018 and 27 June 2018 justified a reduction in RV to nil for the period in dispute.

Evidence

6. The Appellant had provided details of the programme of works for the refurbishment that began on 30 April 2018 along with photographs of the property during and after the works. The works included –
   - New electrical wiring throughout the shop
   - Wiring in the basement was changed twice as it needed to be replaced following a flood halfway through the refurbishment
   - Building new sanitary fittings and drainage connections
   - Construction of a new customer toilet in the basement complete with ventilation
   - Replacement stairs from ground to first floor
   - Replacement floorboards and tile flooring on ground floor and vinyl flooring in the basement
   - Replacement of the ceiling in the basement due to flooding
   - Re-installation of the ground floor ceiling due to flooding

7. The Appellant contended that the physical condition of the property during these works meant that it should be listed as a ‘building undergoing construction’ and the RV reduced to nil for the duration of the works.

8. The Respondent explained that the Valuation Office Agency’s (VOA) standard practice to consider deleting an entry from the Rating List, depending on the type of work being carried out, is to consider works lasting four months or more. He accepted that the works would have had some impact on the property but considered that, as the works lasted less than two months, they were too transient. He also explained that the property must be considered at the Material Day, which for the purposes of this appeal was 21 June 2018, when the Appellant completed his Check with the VOA. He asked the panel to dismiss the appeal and confirm the existing entry in the list.

Decision and Reasons

9. Paragraph 7(b)(i) of the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI1992/556) sets out the Material Day on which the physical situation at the property must be considered. It is not necessary to set out the full provisions here but the Material Day is set as the date on which the VOA received the Check, to confirm the accuracy of the information about the property, from the Appellant under regulation 4C of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009.

10. The Respondent has stated that the Check was received on 21 June 2018 and therefore the panel must consider the situation at the property on that date. The panel has no discretion over the Material Day.

11. The Appellant confirmed that work began on 30 April 2018 and completion was delayed due to damage caused by flooding. When questioned by the panel as to what works remained to be completed at the Material Day, the Appellant stated all that remained on 21 June 2018 was the final touches of decorating and the company began trading on 27 June 2018. He explained that he was unable to carry out the Check on the property earlier as he needed to submit a Business Rates bill from the local council to verify status as the taxpayer and this was delayed.

12. Whilst the panel had sympathy with the Appellant in the delays he experienced when making his Check, it must consider the property on the Material Day of 21 June 2018. By his own admission, the Appellant has confirmed that very little work remained to be done by this date and the majority of the refurbishment was complete. The panel is therefore of the opinion that a hypothetical tenant considering the property on the Material day would not reduce his rental bid to reflect the works to be carried out at that point. Whilst the works would have had an impact, it is not uncommon for a new tenant to carry out refurbishment or fitting out works when taking on a property to ensure it is suitable for the purpose for which it is to be occupied. At the Material Day, the property was freshly refurbished and its condition is unlikely to have had a negative effect on the rental value.

13. Therefore, the panel dismissed the appeal and confirmed the current entry in the Rating List of £78,000 from 1 April 2017.

Date: 20 November 2020
Appeal number: CHG100069083