THE VALUATION TRIBUNAL FOR ENGLAND

Non domestic rating appeal; 2017 rating list; hairdressing salon and premises; whether the use of the property affected its valuation; appeal dismissed

Re: Hereford Hair Academy, 28 Commercial Street, Hereford, HR1 2DE

APPEAL NO: CHG100073147

BETWEEN	Ms Kelly Turner and Mr D Virk (Valuation Officer)	Appellant Respondent

BEFORE: Ms M Dowrick (Senior Member)

HEARING: Remote Hearing No. 4, Friday 4 December 2020

APPEARANCES: Ms K Turner, the appellant, accompanied by Ms D Bruton, the accounts manager
Mrs L Holloway, on behalf of the respondent

CLERK: Mrs A Keohane

Summary of decision

1. The appeal was dismissed. No change was made to the existing assessment of £31,500 rateable value (RV) with effect from 22 January 2018.

Introduction

2. 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.

3. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of the 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.

4. In accordance with the Tribunal's business arrangements, I am authorised to consider and determine this appeal sitting alone.

5. The subject is a 2017 rating list appeal brought in respect of Hereford Hair Academy, 28 Commercial Street, Hereford, HR1 2DE, (the 'appeal property'), entered into the 2017 rating list as a Hairdressing Salon and Premises at £31,500 RV with effect from 22 January 2018.

6. The appellant submitted a challenge proposal that was received by the Valuation Officer on 7 February 2019. The grounds of the proposal sought a reduction in the assessment based on the property's dual use; 30% as a hairdressing salon and 70% as a training centre. It also requested a change in the description to Hairdressing Salon and Training Centre. Upon consideration of the proposal, the Valuation Officer decided that it was not well-founded and issued a challenge case decision notice to that effect on 12 June 2020. As the assessment had not been altered in the way requested in the proposal, an appeal was made to the Valuation Tribunal on 18 September 2020 on the grounds that the valuation for the hereditament was not reasonable.

7. The subject property is a double fronted standard shop unit located in a pedestrianised area of Hereford centre with other similar shop units. Its description at the start of the 2017 rating list had been Shop and Premises; however, this had been altered with effect from 22 January 2018 (the material day in this appeal as confirmed by the Valuation Officer) to its present entry of Hairdressing Salon and Premises.

8. To assist the appellant, and with the agreement of the parties, I varied the Tribunal's model procedure as outlined in PS8 and asked Mrs Holloway to present the Valuation Officer's evidence first.

9. This decision document is not intended to be a verbatim report of the proceedings, nor does it reproduce the parties' evidence in full. The absence in this decision of a reference to any statement or item of evidence should not be construed as it having been overlooked.

Issues

10. The appellant contended that the appeal property should be re-valued to reflect its present use as a hairdressing salon and training centre. Essentially, the Valuation Officer contended that, vacant and to let, the appeal property was a retail unit and should be valued as such.

Evidence and submissions

11. A bundle of evidence was provided in this appeal, which comprised the reasons for the challenge to the appeal property's rating assessment and subsequent appeal. It also included the information exchanged between the parties during the challenge stage of the process, together with a document setting out a contract between Riverside Training Ltd and Hereford Hair Academy for services to adult education and training for the period 1 August 2018 to 31 July 2019.

12. To give some background, the appellant explained that the appeal property's lease had been negotiated with the landlord between December 2017 and January 2018. Planning permission for a change of use was applied for during this time and the landlord was aware of the proposed change. The property was refurbished, and training/trading commenced on 7 April 2018. The planning permission recognised that the A1 use of the property was 30%, with the remaining 70% being in D1 use as a training centre.

13. In refurbishing the property, a condition of the lease, the appellant had spent £130,000 in setting up a luxury salon and training centre. It was now recognised by the Vocational Training Charitable Trust as an approved training and examination centre of excellence. The ground floor of the premises was mainly open plan but had three clearly defined areas: a reception area, waiting area and salon and training salon. Upstairs the property had a classroom, office, beauty classroom and a professional beauty room.

14. Prior to the hearing, Ms Turner had sought a reduction to £9,450 RV with effect from 22 January 2018. However, at the hearing, and having now had more information on how retail properties were valued, Ms Turner accepted the valuation of zones A and B which she agreed were the parts of the property used for retail purposes. Although she did not give a revised proposed figure for the RV at the hearing, the valuation of zones A and B amount to £24,174, so this clearly affected the reduction she was seeking. With regard to the remaining areas of the property used for training and educational purposes, her contention remained that these should be valued differently or not at all.

15. In brief, Mrs Holloway contended that the existing assessment was correct. Some discrepancies had arisen over the rent of the appeal property held by the Valuation Officer; given the information from the Form of Return differed from that outlined in the challenge document. It was established that the appeal property was leased for a 10-year period with effect from January 2018; the rent being in respect of a shell, refurbishment of the property being part of the lease, together with a 12-month rent free period. The rent was also a stepped arrangement rising from £10,000 to £28,000 per annum. When adjusted and analysed, the rent devalued to £297.33/m^2.

16. Mrs Holloway contended that, as the appeal property was a retail unit within a predominantly retail area, it should be valued in line with other retail units in the locality. Whilst accepting that regard should be had to the mode and category of its occupation, she believed that consideration had to be given to the rents on the adjoining retail units. As the alteration of use would not lead to a lower rental bid at the AVD, Ms Holloway considered that the appeal property's assessment should remain in line with other shop units on Commercial Street and she sought dismissal of the appeal.

Decision and reasons

17. The appeal hereditament must be valued for the purposes of non-domestic rating on the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (the antecedent valuation date or AVD). Matters affecting the physical state or enjoyment of the property or the locality were to be taken as at the material day in accordance with Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No.

556) as amended. When assessing the RV of any property, it is assumed to be 'vacant and to let' and in the state set out in Schedule 6 of paragraph 2(7) to the Act, in relation to both the physical nature of the property and its mode or category of use.

18. Upon consideration of the evidence provided in this appeal I conclude that the appeal property's current assessment is reasonable. I am unable to have regard to the fixtures/fittings put into the property by the appellant as they do not form part of the hereditament for rating purposes. The appellant has also referred to the billing authority's refusal to grant any exemption from payment of rates in relation to this property; however, I have no authority to deal with the collection of rates.

19. I am satisfied that the appeal property should continue to be valued as a retail premises. It does not fall within a non-retail category; given it still retains some retail use. That said, I accept that the appellant is using the majority of the area for training purposes; however, I consider that the appellant's use of the property would not affect the rental bid of the hypothetical tenant coming fresh to the scene when viewing the appeal property vacant and to let.

20. The external photographs of the property confirm that it has a traditional double shop frontage. The photographs of its internal layout did not persuade me that anything done to the property to facilitate training use could not easily be undone by any tenant wishing to take the premises for retail use. An incoming tenant would be at liberty to use the space differently to the appellant.

21. I find that when viewing the appeal property vacant and to let, its inherent character and nature is that of a retail unit within a locality of other retail units. It is not unreasonable to assume that any hypothetical landlord looking to let the appeal property at the AVD, would expect to negotiate a rent with comparability to that achieved by other similar units in the locality.

22. The appellant has argued that planning permission has been changed to facilitate the 30% (A1) retail and 70% (D1) training use at the appeal property. I do not consider that the change in planning permission would necessarily affect how the property should be valued. The appeal property was previously a retail unit and there is no evidence to suggest that upon further application it could not revert to predominantly A1 use again.

23. Having decided the above, I then considered if the zone A price applied in the appeal property's assessment was reasonable. I found the rent of the appeal property as outlined by the appellant of little assistance in determining this. The rent was set two years and nine months after the AVD, in a different rental and economic market. It therefore gave me very little guidance on the rent the appeal property would have achieved at the AVD. Also, due to factors such as the rent-free period, the amount spent on refurbishment and the stepped arrangement, it would require too many adjustments to render it useful. For this reason, I placed very little weight to this evidence.

24. Within the Valuation Officer's evidence, rental information was provided for 29-30 Commercial Street. This had a November 2013 rent, prior to the AVD, which the Valuation Officer had devalued to £340.41/m^2. A check had been received in relation to this property resulting in its area being revised downwards. Using this revised area, the rent analysed to £395/m^2. It was also confirmed that 44 Commercial Street has been valued using £360/m^2 and zone A prices increased to £400/m^2 the closer properties were to the city centre.

25. On balance, having regard to the above, I find that the assessment of the appeal property based upon a zone A price of £340/m^2 has not been shown to be unreasonable and I do not consider it appropriate to amend its description in the manner requested by the appellant. The appeal is therefore dismissed.

Date: 24 December 2020

Appeal number: CHG100073147