THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List Appeal; shop and premises; whether entry could be deleted from the Rating List; Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999; *appeal dismissed.*

RE: 48/50 Sheffield Road, Barnsley, South Yorkshire S70 1HS

APPEAL NUMBER: CHG100074758

BETWEEN:	Dr S Sepehri	Appellant
	and	
	Mrs J Moore	Respondent
	(Valuation Officer)	

PANEL: Mr J Rockliff (Senior member) and Mrs L Stuart

CLERK: Mrs S Morgan IRRV(Hons)

REMOTE HEARING: Tuesday 1 December 2020

PARTIES PRESENT: Dr S Sepehri – Appellant

Mr N Green – Valuation Officer's representative

Summary of decision

1. Appeal Dismissed. The panel determined that the entry in the Rating List for the appeal property should remain.

Introduction

2. This was a 2017 rating list appeal. 48/50 Sheffield Road, Barnsley (the 'appeal property') had been entered in the 2017 Rating List as 'shop and premises', £15,000 RV with effect from 1 April 2017.

3. The challenge proposal was submitted by Dr Sepehri and was received by the Valuation Officer on 16 February 2019. It had been made on the grounds that the property should be deleted from the Rating List with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 17 July 2020, which stated that the rating list entry was considered to be reasonable, and therefore no amendment would be made.

5. 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.

6. 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.

7. 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

8. Whether the appeal property's entry should be deleted from the Rating List.

Evidence and submissions

9. The appeal property is a shop and premises which occupies basement, ground and first floor of the building at 48/50 Sheffield Road, Barnsley. The shop is situated in a parade of shops, most of which are occupied. The survey details for this former restaurant were confirmed as correct in 2018.

10. The second floor of the appeal building has been reduced to nil rateable value because the repairs were considered so extensive that they would be uneconomic to carry out. The demand for the second floor was thought to be low and that a landlord would not be inclined to spend money on the repairs. However, the second floor is separately assessed and was not part of this challenge.

11. Mr Green, the Valuation Officer's representative, explained that in relation to legislation and case law, a property will remain in the rating list until it ceases to be 'property which is or may become liable to a rate'. In other words, a non-domestic property will continue to exist until it is evidenced at a material date that;

- It is subsumed into a different property, i.e. a merger
- It becomes a different property, i.e. a split
- It is destroyed, for example the demolition of an existing office building; by design or external factors such as fire or flood.

12. Mr Green contended that as none of the above circumstances were applicable to the appeal property at the material date, 1 April 2017, then he was unable to delete the entry from the Rating List.

13. In addition, Mr Green referred to the definition of rateable value, in particular the second assumption which requires the property to be valued in a state of reasonable repair. If the repairs were so extensive that they would be considered uneconomic and would not be made, the actual condition could be reflected in the valuation. In his view, this was not the case here.

14. Mr Green understood that from information passed on from the billing authority that the appeal property was now occupied. Therefore, a certain amount of repair would have been carried out, otherwise the property would not have been capable of occupation.

15. The grounds of the proposal limit any alteration that the Valuation Officer can make in respect of this challenge. As the subject property has not met the requirements for a deletion from the rating list with effect from 1 April 2017, Mr Green believed that the entry should remain in the list.

16. Dr Sepehri explained that the property had been on the market for approximately 10 years and there had been no interest in the building. During that time there had been two fires at the property which caused significant destruction, a crack had appeared on the back wall from top to bottom, pipes and wires had been stolen, the roof leaked, and the walls had been damaged by the homeless. Furthermore, no insurance company would insure the building in its current state.

17. Interior photographs were provided of the property together with a quotation for the works covering the whole building. With reference to the schedule of works, Dr Sepehri contended that the cost of repairs submitted were not economic for a landlord to undertake and therefore the appeal property should be deleted from the Rating List. He confirmed that the property remained boarded up and unoccupied.

Decision and reasons

18. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic

property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis on these three assumptions:

(a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

(c) the third assumption is that the tenant undertakes to pay all the usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

19. In this case, the panel understood that in the appellant's challenge it was stated that the appeal property should be deleted from the Rating List with effect from 1 April 2017. As such, the grounds of the proposal limit any alteration that can be made in respect of this challenge.

20. The panel noted that the parties differed in their views as to whether the property was occupied or not. The respondent had not inspected the property but was acting on information provided by the billing authority, whilst the appellant had based his opinion on his personal knowledge of the property. The panel believed that the appeal property was unoccupied, however, this did not alter the grounds of the challenge which was for a deletion of the entry in the Rating List.

21. The panel concluded that at the material day, there was no compelling evidence to support the contention that the property should be deleted. The building stood in a parade of mostly occupied shops which showed there was a demand for this type of property in this location. Although the building may have been in poor repair, it had not been merged, split or destroyed. It still existed as a non-domestic property. The panel concluded that a reasonable landlord would carry out the required works.

22. The panel therefore determined that the appeal property had not met the requirements for the entry to be deleted from the Rating List and the appeal was dismissed.

Date: Tuesday 22 December 2020

Appeal number: CHG100074758