THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List Appeal; veterinary surgery and premises; whether the property was domestic or exempt; appeal dismissed.

Re: St Bridgets Veterinary Centre, St Bridgets Lane, Cumbria, CA22 2BB

APPEAL NUMBER: CHG100102396

BETWEEN	Mrs Y Jaing	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

PANEL: Dr H Freeman (Senior Member)
Ms J Morton

CLERK: Mrs A Keohane

REMOTE HEARING: Friday 13 November 2020

APPEARANCES: Mrs D Reddihough representing the Valuation Officer

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Summary of decision

1 Appeal dismissed. The panel confirmed the assessment of £11,000 rateable value (RV), with effect from 1 April 2017.

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 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.

4 This was a 2017 rating list appeal. St Bridgets Veterinary Centre, St Bridgets Lane, Cumbria, CA22 2BB (the 'appeal property') was entered in the 2017 rating list as veterinary surgery and premises at £11,000 RV with effect from 1 April 2017.

5 The Challenge proposal submitted by Mrs Jaing was received by the Valuation Officer on 31 May 2019 and had been made on the grounds that "the property was now domestic or exempt" with effect from 23 November 2018. The Valuation Officer issued a Challenge Case Decision Notice on 17 October 2019, making no amendment to the rating list entry.

6 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Mrs Jaing made an appeal to this Tribunal on 9 January 2020 on the grounds that the Valuation Officer had not amended the rating list and the valuation for the appeal property was not reasonable.

7 At the time the appeal was made, Mrs Jaing submitted additional evidence that had not been exchanged at the Check and Challenge stage of the process. Although the Valuation Officer initially objected to the inclusion of this evidence, the objection was subsequently withdrawn. Closer to the hearing date, Mrs Jaing again provided extra evidence; the Valuation Officer agreed to this late information being admitted at the hearing.

8 Mrs Jaing was not in attendance but requested that the hearing proceed in her absence.

9 The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it having been overlooked by the panel.

Issue

10 Whether the appeal property was domestic or exempt property at the material day of 23 November 2018.

Evidence and submissions

11 Mrs Reddihough referred to the evidence exchanged between the parties during the Check and Challenge process and the additional information and photographs submitted more recently by the appellant. The latest photographs confirmed the appeal property's development to be well underway and nearing completion. However, there was no evidence to suggest that, at the material day of 23 November 2018, work had been undertaken to convert the property to domestic use.

12 Mrs Reddihough accepted that planning consent to develop the appeal property to two domestic dwellings had been in place since 2016. However, she explained that this, in itself, was insufficient for the rating list

to be altered; given that planning permission only gave an indication of an owner's intention to re-develop a building. A property's assessment would only be removed from the rating list when substantial physical changes had commenced. As at 23 November 2018, no changes had been made to the appeal property, it remained a vacant non-domestic dwelling, which had been maintained to a reasonable standard.

13 Within the appellant's proposal it was indicated that the building had a legal restriction placed upon it which meant that it could no longer be used for an animal related business. The appellant had been advised that the appeal property had been valued as an office, but not any particular type of office and was therefore capable of occupation for general office purposes at the date the appellant purchased it.

14 Although it had been outside of the scope of the Challenge proposal submitted, the appellant had raised the issue of alteration and repair; given that asbestos had been found in the building's floor and the layout of the premises did not lend itself to general office use without some alterations being made. The appellant also stated that any work undertaken to allow the building to be re-occupied for non-domestic purposes would be expensive and unnecessary; given the intention to re-develop the building.

15 The Valuation Officer had referred to the rating hypothesis under which a property was assumed to be in a reasonable state of repair, unless evidence was specifically provided to the contrary. It was also confirmed that it was not unusual for redecoration and minor fit out works to be undertaken in anticipation of a new occupier. The appellant had argued that in order for the appeal property to be used for non-domestic purposes following her purchase, £15,000 would have needed to be spent on it. Mrs Reddihough did not consider repair costs of 1.4 times the property's RV, was excessive as this cost did not exceed 5.65 times of the RV, a general principle derived from *Thomas & Davies v Denly (VO)* [2014] UKUT 146 (LC).

16 Mrs Reddihough confirmed that following a further Check case by the appellant, the appeal property had been zero rated with effect from 1 April 2019 to reflect that re-development works commenced on this date.

17 At the time Mrs Jaing purchased the appeal property in November 2018, she had assumed that an unoccupied building qualified for three months exemption from rating; however, this exemption had not been awarded by the billing authority. Due to her financial circumstances, Mrs Jaing wanted all works to be completed as quickly as possible and provided photographs, various bills, invoices and copies of correspondence with Copeland Borough Council in relation to the re-development. She also provided a programme of the works to be done and the timescale in which it was expected to be completed.

18 Mrs Jaing understood that the appeal property had been zero rated with effect from 1 April 2019; however, she had decided not to withdraw the Challenge that gave rise to the subject appeal as she was unhappy with the

decision not to alter the rating list for the period from 23 November 2018 to 30 March 2019.

Decision and reasons

19 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.

20 The date of the hypothetical rent is 1 April 2015, the antecedent valuation date (AVD) for the 2017 rating list.

21 The appellant had provided various pieces of evidence in relation to works considered necessary to the appeal property to allow it to be used for non-domestic purposes following her purchase; together with invoices and bills in relation to the conversion of the property to domestic dwellings. However, in this appeal the matter for consideration by the panel was whether the appeal property, at the material day of 23 November 2018, was domestic or exempt property.

22 In determining this appeal, the panel had regard to the evidence provided by the parties. It paid particular attention to the following:

i. The appeal property had been purchased by the appellant on 16 November 2018. At that time it was a vacant veterinary surgery and premises that was confirmed to be in a moderate state of repair.
ii. The photographs provided by the appellant did not support her contention that the appeal property was domestic or exempt property at the material day. The original photographs were undated and those submitted in October 2020, gave the latest view of the progress of the development and confirmed that it was nearing completion. A letter from Copeland Borough Council, dated 23 October 2020, established that addresses and postcodes for the new development had been allocated. None of this information gave a definitive view of the state of the appeal property at the date the panel was required to view it.

iii. The bills and invoices submitted were, in the main, dated after the appellant's purchase and outlined the work necessary to create domestic dwellings.

iv. A schedule of work and the timescales in which it was to be completed was provided. This confirmed that the appellant planned to meet the architect to discuss the drawings for the development on 15 November 2018; this was actually completed on 4 March 2019. It was also identified that on 1 December 2018, the builders had not yet provided a quote for the conversion work, this was completed on 15 February 2019.

v. Correspondence from Copeland Borough Council confirmed that plans for the development had been deposited with them on 27 February 2019 and full conditional approval given on 4 March 2019.

vi. The information provided by the appellant showed that building works commenced to develop the appeal property into two domestic dwellings on 1 April 2019. The date from which the Valuation Officer had zero rated the appeal property.

23 In consideration of all of the evidence presented, the panel was satisfied that the works to convert the property into two domestic dwellings had not completed at the material day; therefore, at that time, the building was not domestic property. Having regard to this, together with the fact that there was no evidence to support that the building was in an exempt use, the panel could not remove its assessment from the rating list with effect from 23 November 2018.

24 The subject appeal was therefore dismissed.

Date: 24 November 2020

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