THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; store and premises; different rating lists; tone of the rating list; comparable properties; appeal allowed in part.

Re: Rear of 43a The Avenue, Minehead, Somerset, TA24 5AY

APPEAL NUMBER: CHG100165591

BETWEEN:	Remo A Prior-Calver (represented by Alison Prior)	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL: Mrs J Ellis (Senior Member sitting alone)

CLERK: Mrs A Sloan

REMOTE HEARING: 20 July 2021

PARTIES PRESENT: Ms A Prior (Appellant's mother and representative)
Mr L Butcher (Valuation Officer's representative)

Summary of decision

1. The appeal was allowed in part and the rateable value (RV) reduced to £4,550 effective 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. The hearing was conducted via Microsoft Teams and I was satisfied that both parties were fully able to participate in the hearing.

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

5. The appeal was brought in respect of the store shown as Rear of 43a The Avenue, Minehead, Somerset TA24 5AY in the rating list (the subject property). The subject property is a store previously included in the assessment for the neighbouring shop but now rated separately. The store measures 75.60m^2 Gross Internal Area (GIA).

6. This is a 2017 Rating List appeal. The original entry for the assessment in the 2017 list was £5,900 but, following an appeal on the entry in the 2010 rating list, the subject property was valued under a different scheme which resulted in a reduction to £5,600. The proposal challenging this entry in the list was submitted by the Appellant on 5 February 2020. The challenge decision notice, refusing a reduction in RV, was dated 8 March 2021. Ms Prior lodged the appeal with the Tribunal on 21 March 2021.

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 before coming to my decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

8. The issue before me was to determine the correct RV for the subject property's entry in the compiled 2017 rating list.

Evidence and submissions

9. With the agreement of the parties, I decided to vary normal procedure and invite the Respondent to present his case first as it was felt that this would assist me and Ms Prior, who was not familiar with Tribunal proceedings.

10. The evidence bundle contained all the documents provided by Ms Prior that had been exchanged between the parties as part of the challenge process.

11. Mr Butcher, for the VO, explained that he was acting as Advocate in this appeal as he had not dealt with the challenge decision or inspected the subject property. He provided a background to the current entry in the list, explaining that the original entry had been reduced following the outcome of the appeal against the 2010 list entry. As the property was owner occupied there was no rent passing on the store and it fell to be valued by comparison with other similar stores in the locality. He presented examples of other stores valued under the same scheme as the subject property, which he felt supported the existing valuation, based on £74.90/m^2. He also commented on the properties relied upon by Ms Prior to support her case for a reduction in RV.

12. Ms Prior explained that the subject property is used as storage only and would need development to be used for any other purpose. Photographs provided by the Appellant were presented along with those taken during the VO's inspection in 2016. Ms Prior stated that she had agreed the RV of £2,650 for the 2010 rating list and so was surprised at the increase to £5,600 for the 2017 list. She was of the opinion that the rents for such properties

had not increased between lists and therefore the RV should remain at a similar level to that in the 2010 list. She referred to six properties in the Minehead TA24 postcode area that she felt supported her case. During the hearing Ms Prior stressed to me the difficulties she had faced in her dealings with the VO in this matter.

Decision and reasons

13. The VTE does not have the power to grant any remedy in relation to the manner in which the VO has dealt with the Appellant's proposal or appeal, but any grievance concerning such administrative matters may be pursued directly with the VOA by way of a formal complaint. Administrative matters cannot have a bearing on the Tribunal's decision in a valuation appeal, which must be reached purely on the basis of relevant evidence, having regard to current legislation.

14. In deciding this appeal, I was bound by the governing legislation. The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

"The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year 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 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".

15. The antecedent valuation date (AVD) for all 2017 list rating appeals is 1 April 2015. Reference was made by Ms Prior during the hearing to the agreement she had reached on the entry for the subject property in the 2010 rating list. I accepted that, due to the volume of appeals lodged, it is not uncommon for appeals against the 2010 list to be settled long after the list had closed on 31 March 2017. It appeared to me that Ms Prior was under the impression that the RV agreed on the 2010 list appeal would also apply to the 2017 list entry, but this was not the case. Mr Butcher explained that the AVD for the 2010 rating list was 1 April 2008 and any rents considered to support the RV for the entry in that list would have reflected the market in 2008. The 2017 rating list was based on a new pool of rental evidence from around the statutory valuation date of 1 April 2015.

16. I understood from the submissions made by the parties that the subject property was originally assessed as part of the valuation for the adjacent shop but, following the decision in *Woolway v Mazars* [2015] UKSC 53, the store had been entered into the rating list as a separate hereditament. This was due to the store being separated from the shop by a public walkway. The Mazars decision was not included in the evidence bundle but Ms Prior

confirmed at the hearing that she understood the reason for the separate entry. However, she still felt that the valuation for the store was excessive.

17. Mr Butcher confirmed that the subject property had been valued by reference to similar stores in the Minehead area that had been valued using the same scheme. He provided details on three stores shown as Ground Floor Rear of 8 Park Street, Unit 2 Vennland Centre and Unit 3 Vennland Centre.

18. The store at the rear of 8 Park Street was smaller than the subject property, measuring 34.95m^2, and its rent was established in January 2017. This property was valued on a base rate of £85/m^2.

19. Units 2 and 3 Vennland Centre were both larger than the subject property, measuring 114.75m^2 and 114.60m^2 respectively. The rents agreed on these stores were £7,800 from 1 May 2014 (unit 2) and £3,380 from 1 November 2013 (unit 3). Both stores had been valued on a base rate of £60/m^2.

20. Mr Butcher stated that, due to quantum, smaller stores within the scheme were valued at a higher base rate than larger stores. He illustrated this by reference to one of the properties relied upon by the Appellant, Prince Western Leather Co in Ponsford Road (the same road as Vennland Centre). This property was valued as a factory and was considerably larger at 924.94m^2. It had been valued on a base rate of £27.01/m^2. Mr Butcher stated that the base rate of £74.90/m^2 applied to the subject property sat in between the rates applied for the smaller and larger stores cited in the VO's case and he felt it was correct.

21. Ms Prior had included summary valuations for six properties in Minehead to support her case for a reduction in RV for the subject property. The valuations that she had provided applied a base rate of between £24/m^2 and £36/m^2.

22. Mr Butcher provided additional information on the properties referred to by Ms Prior. Unit 1 Vennland Cetnre was valued on a different scheme to the subject property as it was a workshop and had been assessed in line with others on the same industrial centre. He did not consider this property comparable to the subject store.

23. The valuation for Minehead and District Social Club and St Johns Ambulance were on the basis that these properties were licensed clubs and therefore not comparable to a store. Julian's Laundry was valued as a laundry and not a store. Metropole Garage was valued as a vehicle repair workshop and therefore not comparable to a store. Prince Western Leather Co, as mentioned above, was valued as a factory so not comparable to a store.

24. I noted that all six of the Appellant's proposed comparable properties were significantly larger than the subject property, measuring between 369m^2 to 2,364m^2, and were not comparable in their mode and category of use. During the hearing Ms Prior explained that she was not necessarily comparing the whole assessment in each case to the subject property but referring to the price per m^2 applied on a line by line basis within each valuation for storage areas. Whilst I noted that values applied to storage areas within these assessments was much lower than the £74.90/m^2 applied to the subject property, I did not conclude that a line within a wider valuation was the best evidence on which to value the stand alone store that was the subject of this appeal.

25. In appeals of this nature, where there is no passing rent on the subject property, I found the best evidence must be comparable properties in the locality of similar size, age and category

of occupation. I therefore concluded that the three stores presented by the Respondent carried more weight in evidence than the properties relied upon by the Appellant. The valuation of these stores was supported by the rents agreed in each case. Although Ms Prior had argued that the rents for such properties had not increased, no alternative evidence of rents agreed was presented for me to consider.

26. I was not provided with any photographs of the stores at Park Street and the Vennland Centre to enable me to compare them with the subject property. I noted from the photographs of the subject property that it is of brick construction and has no windows. The statutory definition of rateable value requires me to assume the property is in a reasonable state of repair, regardless of whether this is the case, and no evidence had been presented to show that any repairs required were uneconomical.

27. The VO's case provided me with detail on the rents agreed on the stores, although none were particularly close to the AVD of 1 April 2015. The closest rent to the statutory valuation date was that of Unit 2 Vennland Centre on 1 May 2014. I concluded that the best evidence of value for the subject property was that of Units 2 and 3 Vennland Centre at a base rate of £60/m^2. Whilst larger than the appeal property I accounted for the lack of insulation and windows at the appeal property which would affect a hypothetical tenant's rental bid. In appeals of this nature the burden of proof rested on the Appellant to prove her case for a reduction. In this case, I did not find the properties relied upon by the Appellant to be useful comparisons but I found that the evidence presented supported some reduction in RV for the subject property and the appeal was allowed in part.

Order

28. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for Rear of 43a The Avenue, Minehead, Somerset, TA24 5AY in the 2017 Rating List to £4,550 effective from 1 April 2017.

    The Valuation Officer must comply with this Order within two weeks of its making.

    Any fee paid will be refunded in full in accordance with regulation 13E.

Date: 9 August 2021
Appeal number: CHG100165591