

THE VALUATION TRIBUNAL FOR ENGLAND



2017 Rating List appeal – appeal was against compiled list – agreement reached with effective date later than 1 April 2017 with VO serving Notice to amend entry in List – as effective date different to that of a compiled list appeal panel unable to ratify agreement to give effect to refund fees paid – circumstances of why appeal made – consideration of property at material date – alteration giving rise to reduction occurred after material date for compiled list appeal -appeal dismissed.

Re: K A Warehousing Ltd, Lower Yard, Skelmersdale, WN8 8EA

APPEAL NUMBER: CHG100181198

BETWEEN:	K A Warehousing Ltd	Appellant
	and	
	The Valuation Officer	Respondent

PANEL;	Miss S Ballentine (Senior Member)
	Mr A Wheeler

CLERK:	Mr A Jolly
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REMOTE HEARING:	Wednesday 24 November 2021
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APPEARANCE:	Mr K Batty of Ken Batty Ltd representing the occupier K A Warehousing Ltd (appellant)
	Mr C Skerratt representing the Valuation Officer (respondent)

Summary of decision

1. Appeal Dismissed. Rateable Value (RV) £161,000 confirmed as correct with effect from 1 April 2017.

Introduction

2. An appeal received on 29 June 2021 against the Valuation Officer's Challenge Case Decision Notice dated 2 March 2021.
3. 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.

4. 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.
5. In accordance with that Practice Statement, the panel conducted the hearing of this appeal remotely via Microsoft Teams conference call using audio/video-link. For the avoidance of any doubt, the panel was satisfied that those present at the hearing were able to fully participate in the proceedings.
6. 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.
7. Due to the circumstances Mr Batty stated that he was not making a charge to represent his client at this hearing.

Preliminary Issue

8. Mr Batty informed the panel that he was seeking a ratification of an agreement that he and the Valuation Officer had reached with effect from 21 March 2019. He stated that as the Valuation Officer had made the alteration to the 2017 Rating List by Notice and not by agreement via a Consent Order his client was not able to have a refund of the fee made to lodge the appeal.
9. Mr Batty provided the panel with the history of the property and that an appeal had been made to the Upper Tribunal in relation to a 2010 appeal. He stated that the appeal had been settled by consent but during an inspection with the Valuation Officer’s representative he confirmed that he would remove the area in this dispute from the assessment of the appeal hereditament once the area was seeded with grass. Mr Batty stated that when the area was seeded he lodged a challenge querying the overall assessment and also seeking the removal of the area. The Valuation Officer who dealt with the challenge, different to the person he had previously dealt with, did not amend the entry in the challenge decision and Mr Batty felt compelled to lodge an appeal against the decision notice.
10. He stated that following his appeal Mr Skerratt became the case worker and following an inspection agreed to remove the area from the assessment from the date of his inspection. Mr Batty agreed with this but was of the opinion that that his client would be entitled to a refund of the fee. He acknowledged that the matter could not be dealt with by a consent order due to the agreement being a different date. He requested the panel ratify the agreement in order that his client could be refunded his fee.
11. Mr Skerratt informed the panel that it was his understanding that the matter had been agreed with a reduction in the Rateable Value from the date the area was seeded. Due to the effective date being different to the date for the appeal he had to serve a Notice to make the alteration and was not able to issue a consent order due to the different material and effective date.

12. The panel noted that the appeal lodged was against the compiled list entry and not a material change in circumstances and therefore different material and effective dates were applicable. For this reason the panel was not able to ratify an agreement in relation to a material change effective from 21 March 2019 on an compiled list appeal.
13. The panel aware that the options open were limited for either Mr Batty to withdraw his appeal or the panel to continue to hear the appeal. As no withdrawal had been made the panel proceeded to hear the appeal. Either option would not entitle to a refund of the appeal fee unless the panel found that the compiled list entry should be amended.

Issues

14. The issue before the panel the RV to be applied to the appeal property with effect from 1 April 2017.

Evidence and submissions

15. Mr Batty stated that he did not propose to waste the Panel's time but stated that when the Valuation Officer inspected the property in connection with the 2010 appeal the area was in a poor state of repair and that he suggested that the agreement to remove the area from the assessment should be from the 1 April 2017 and not the 21 March 2019.
16. Mr Batty confirmed that the area was seeded with grass on 19 March 2019.
17. Mr Skerratt stated that he considered that the agreement and the acknowledgement that the areas was not seeded until 19 March 2019 illustrated that the value in the List at 1 April 2017 was correct.

Decision and reasons

18. The appeal was requesting that land within the assessment be removed from the assessment. As the appeal was concerning the compiled list entry the material date and effective date were 1 April 2017.
19. The panel noted that the parties had agreed the RV at a lower value following the seeding of the disputed area with grass but this occurred after the material date and the effective date of a compiled list appeal in March 2019.
20. No evidence had been presented by the parties that the disputed area had been seeded earlier than March 2019 and in fact Mr Batty confirmed that the seeding took place in March 2019.
21. The panel was satisfied that at the material date of the appeal before it the disputed area was not seeded. The panel therefore was satisfied that RV £161,000 with effect 1 April 2017 was correct. The appeal was therefore dismissed.

Date: Tuesday 14 December 2021

Appeal number: CHG100181198