THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Surgery, Storage and Premises; change of use; level of value; rental evidence; comparable properties; appeal dismissed.

Re: PDSA, 7 Warwick Road South, Stretford, Manchester, M15 0JW

APPEAL NUMBER: CHG100347879

BETWEEN:	Mr M Purcell	Appellant
	and	
	Mr R Roberts	Respondent
	(Valuation Officer)	

BEFORE: Mr A Backway (Senior member)

CLERK: Mrs S Morgan

REMOTE HEARING: Friday 14 May 2021

PARTIES PRESENT: Mr A Peden of Leslie Roberts Chartered Surveyors –

Appellant's Representative.

Mr M Purcell of Concrete Recordings Limited – Appellant

Mr B Slater – Valuation Officer's representative

Summary of decision

1. The appeal was dismissed. No change was made to the appeal property's existing assessment of £56,000 rateable value (RV), effective from 14 April 2020.

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 is a 2017 rating list appeal brought in respect of PDSA, 7 Warwick Road South, Stretford, Manchester M16 0JW (the appeal property) that had been entered into the 2017 rating list as a "Surgery and Premises" at £56,000 RV with effect from 1 April 2017.

5. The challenge submitted by Mr M Purcell of Concrete Recordings Ltd, was received by the Valuation Office Agency (VOA) on 20 July 2020. It had been made on the grounds that there had been a change of use to storage and that this should be reflected in a reduced RV. He sought a reduction to £9,250 RV.

6. The Valuation Officer (VO) issued a challenge case decision notice on 29 October 2020, which stated that based on the evidence and information available, the existing rating list entry of £56,000 RV based on £110/m^2, was considered to be reasonable and no amendment would be made. However, the VO accepted there was a storage element and therefore amended the description from Surgery and Premises to Surgery, Storage and Premises with effect from 14 April 2020, (the material day in this appeal).

7. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable.

8. In accordance with the tribunal's business arrangements, I have been authorised to consider and determine this appeal alone.

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

Issue

10. The issue in dispute concerned whether the existing assessment should be reduced to reflect the appeal property's change of use to storage in pursuance of the amendment in planning permission and the new lease taken out on the property.

11. The appellant's representative contended that the rate adopted for the appeal property was excessive. He sought a reduction to £12.00/m^2 whilst the VO contended that £110.00/m^2 was reasonable.

Evidence and submissions

12. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice; rental evidence summaries; appellant's challenge submission; a copy of the lease pertaining to the appeal property dated 14 April 2020; a copy of the granting of planning permission; photographs; location plans; comparable assessments and the email/letter exchanges between the parties.

13. The appeal property was a purpose built PDSA veterinary surgery situated on Warwick Road South in Stretford and its current assessment is based on a valuation scheme for surgeries within the Metropolitan Borough of Trafford. The subject property is part of valuation scheme 389451, where the values range between £105.00/m^2 and £155.00/m^2 depending upon size, location, and other physical factors. The most common used value being £130.00/m^2. The unadjusted rate applied to the appeal property was £110.00/m^2. The property has an age code of 1993. PDSA vacated the property in November 2019.

Decision and reasons

14. 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.

15. The main issue in this appeal concerned the level of value to be adopted for the appeal property to reflect its change of use to storage. The VO had changed the description to reflect the storage element but believed that the existing RV of £56,000 was reasonable.

16. Mr Peden, the appellant's representative, contended that the assessment should be reduced to reflect the amendment in the planning permission to include the storage use and the new lease taken out on the appeal property from 14 April 2020. He stated that the appellant agreed to take up occupation in the building following the granting of planning permission for storage use on the understanding that the rating assessment would be reduced to reflect the change. Mr Peden added that the occupancy of the building also provided vacant floorspace with a viable use pending the re-development of the site as well as deterring any criminal activity.

17. From 14 April 2020 to 17 November 2020, the appeal property was used purely for the storage of company stock during the appellant's period of occupancy. However, the occupancy was short lived as the VO decided not to reduce the rating assessment, and therefore the cost of occupying the building was too high for the appellant to justify continued use of the premises.

18. Mr Purcell gave a brief history of his music recording business and that it was his intention to sub-let the space at the appeal property as storage for other bands.

19. Mr Peden argued that the appeal property was not viable as D1 use due to its age and layout and, as such, the assessment was too high to reflect the change of use to storage. He referred to 1A and 1B Warwick Road where £28.00/m^2 had been applied as the adopted rate. The leases on these two properties were from June 2019 and analysed to £13.23/m^2 and £12.29/m^2, respectively.

20. Mr Peden sought a reduction in the rating assessment, as he contended that the basic rate was excessive and that £12.00/m^2 was more in line with the comparable properties in Warwick Road. He sought a revised valuation of £9,250 RV with effect from 14 April 2020.

21. Mr Slater argued that whilst the planning permission referred to a change of use to storage, it also retained the veterinary use which allowed enough flexibility for it to be used for veterinary purposes again should there be the interest in the future. In addition, there was evidence that "D1 is considered appropriate; it has been present on site for in excess of 30 years and therefore an established part of the community".

22. Following the granting of planning permission for a change in use, the appeal property was used to store furniture without any adaptation to the premises. The occupier confirmed that no changes had taken place to the appeal property. With regard to the lease, this was for one year from 14 April 2020 for £1 per annum. Mr Slater argued that the lease appeared to be between connected parties and therefore little weight could be attached to it.

23. Mr Slater also referred to two pieces of rental evidence to support his case that the appeal property had been correctly valued as a surgery at £110.00/m^2. The surgery and premises at 109 Ayres Road, Manchester had an adopted base rate of £110.00/m^2 and the health centre and premises at Trafford MS Therapy Centre, The Corner House, Forth Avenue, Trafford Park had an adopted rate of £105.00/m^2. Both of these properties had been placed in the same valuation scheme as the subject property. Furthermore, Mr Slater confirmed that the appeal property's assessment had not been challenged prior to 14 April 2020, which suggested to him that the level of value of £110.00/m^2 was accepted when the property was used as a surgery.

24. Based on the information within the planning permission, its flexible use to be let as a surgery should the interest be there and that there had not been any adaptations made to the existing property, Mr Slater believed that the appeal property was correctly assessed as a surgery, storage and premises with no change to the RV of £56,000.

25. With regard to the two comparable properties at 1A and 1B Warwick Road, Mr Slater confirmed that they were both built between 1919 and 1939 and therefore they were much older than the subject property. They were also of inferior construction, quality and designed for a different use, therefore, in his opinion, they were not helpful as comparable evidence.

26. Firstly, I examined the planning application which was for a change of use from the existing veterinary surgery (D1 use) to a flexible B8 storage/D1 (veterinary surgery) use. The change of use to storage was accepted alongside its permission that it retained its use (historic or not) as a surgery. The planning permission therefore allowed for the property to be used for a dual purpose as storage and surgery use. 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 surgery and there is no evidence to suggest that upon further application it could not revert to D1 use again.

27. In relation to the level of value, I found that the lease on the appeal property with a rent based on £1 per annum between connected parties offered no assistance in this case. Furthermore, the comparable properties put forward by the appellant's representative to support his contention that £12.00/m^2 as storage use was of little assistance due to the difference in age, construction and use. I also noted that there have been no alterations made to the property and therefore, as at 14 April 2020, vacant and to let, the appeal property was still fitted out as a surgery.

28. I find that when viewing the appeal property vacant and to let, its inherent character and nature is that of a surgery. 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.

29. Having considered all the evidence presented at the hearing, I determined that the assessment should not be reduced for the following reasons. The intention of the current owner to demolish and redevelop the site as part of a larger redevelopment cannot be considered. The property retains D1 planning permission. Clinical areas of the property still exist and the whole property, with some modernisation, could be brought back into use as a veterinary surgery. The price per m^2 that had been applied to other similar aged surgeries/health centres in the same locality and on the same valuation scheme supported the level of value adopted of £110.00/m^2 for the appeal property. This was towards the lower end of the price per m^2 range that had been applied to properties of this nature. With these points in mind, I was not persuaded to reduce the level of value for the appeal property.

30. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the case before me, I concluded that he had failed to produce sufficient evidence to justify his claim for a reduction in the level of value. Consequently, I was satisfied that the grounds for the appeal were not substantiated and the appeal was dismissed.

Date: Friday 4 June 2021

Appeal number: CHG100347879