THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Social Club and premises; Scope of Proposal; appeal dismissed.

Re: Compton House Club, First Floor, Stanmore,29-33 Church Road, Middlesex HA7 4AR

APPEAL NUMBER: CHG100458564

BETWEEN: Hirehop Ltd Appellant

and

Mr A Ricketts (Valuation Officer) Respondent

BEFORE: Mrs A Fielder (Senior Member) and Ms K Riddy

CLERK: Mr L Bertie

REMOTE HEARING: 12 January 2022

APPEARANCES: Mr J P Levene on behalf of the Appellant)
Mr J Javed (Respondent's representative)

Summary of decision

1. Appeal is dismissed.

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. The VTE conducted the hearing of this appeal remotely via a Microsoft Teams conference call using an audio/video-link.

Preliminary issue

5. Before the hearing began, Mr Javed asked the panel to dismiss the appeal as the proposal submitted by the appellant had requested that the description be changed to Social Club and premises with effect from 1 April 2017 and having investigated, the proposal had been actioned on this basis and the appellant informed. Accordingly, a Challenge Decision Notice was issued addressing that point. Mr Javed confirmed that this remained the Valuation Officer's (VO's) position.

6. Moreover, Mr Javed considered that regulations 4 and 6 of The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI2009/2268), outlined the Circumstances in which proposals may be made ie Grounds and what a proposal should contain. Consequently from the email exchanges following the challenge notice, the VO had highlighted that Mr Levene sought in his appeal to the Tribunal to raise issues that were not contained in his proposal (Challenge) to the VO. Mr Javed objected to new arguments regarding the RV being brought forward at appeal stage on the current appeal. Additionally, Mr Javed highlighted that a further proposal dated 21 May 2021 had been submitted by the appellant disputing the appeal property's RV but no Challenge decision had yet been issued by the VOA.

7. Mr Levene sought a full hearing addressing the correct RV of the appeal property and highlighted that it would be unfair if he had to come back to another hearing when it was clear that he was also disputing the RV of the appeal property and not just the description and therefore the 2017 Rating list would show a misleading assessment until the other appeal had been determined. Moreover, he considered that because of the VOA method available for submitting a proposal, there were not two options available online for choosing the grounds of proposal . Mr Levene acknowledged the limitations of the panel in this regard but considered that if the current appeal was not heard upon the basis of determining the RV at today's hearing, he felt that it shouldbe adjourned and both appeals should be heard together when the VO had issued a Challenge decision for the other proposal issued on 21 May 2021.

Decision

8. The panel noted the arguments of both parties on the issue of the scope of proposal.

9. The panel was aware that regulations 4 and 6 of The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI2009/2268), outlined the circumstances in which proposals may be made ie Grounds and what a proposal should contain.

10. The grounds under which an appeal can be made to the Tribunal are set out in the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI2009/2268). Regulations 13a states –

13A Making an appeal to the VTE

(1) A proposer may appeal to the VTE on either or both of the grounds set out in paragraph (2) if—

(a) the VO has decided under regulation 13 not to alter the list;

(b) the VO has decided under regulation 13 to alter the list otherwise than in accordance with the proposal; or

(c) the VO has not made a decision under regulation 10 or 13 and—

(i) the proposal is not withdrawn under regulation 11;

(ii) there is no agreement under regulation 12; and

(iii) the period of 18 months beginning with the date on which the proposal was made (or any longer period agreed in writing by the VO and the proposer) has elapsed.

(2) The grounds are—

(a) the valuation for the hereditament is not reasonable;

(b) the list is inaccurate in relation to the hereditament (other than in relation to the valuation)

11. The VO had argued that the proposal made by the Appellant was on ground (2)(b) and was not clear as to any objection as to incorrect assessment but instead argued that the description should be altered to reflect the fact that it had been used as a social club and premises for sometime. Accordingly, a Challenge Decision Notice was issued addressing that point and the VO objected to new arguments being brought forward at appeal stage.

12. The panel agreed with the VO that with regard to the Challenge Notice, any appeal can only be made to the basis of the grounds contained within the proposal which resulted in the challenge notice being issued. Any evidence to be considered in this appeal, is that which was exchanged between the parties at the Challenge stage of the process. The decision under appeal is the Challenge Decision Notice dated 15 February 2020 relating to the description of the appeal property which the VO had actioned. Ordinarily, it was open to the Appellant to make a new proposal to the VO regarding his request to challenge the RV which the panel was aware had been done. If that proposal were unsuccessful, he would have a further right of appeal to this Tribunal.

13. Consequently, the panel was restricted to determining the appeal based on the grounds contained within the proposal and there was insufficient evidence to show this included that the RV was wrong. Therefore, it must dismiss the appeal. Moreover, the appellant was not adversely affected by the panel's decision to dismiss the appeal as there is another proposal outstanding awaiting a Challenge decision by the VOA regarding the contesting of the rateable value.

Appeal number: CHG100458564

Date: 8 February 2022