THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; Garage and Premises; Challenge seeking deletion of list entry; No program of works; Appeal dismissed.

RE: 118A Disraeli Road, London SW15 2DX

APPEAL NUMBER: CHG100690625

BETWEEN:	Roy Soper	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

PANEL: Mr S W Chappell (Presiding Senior Member)
Mr M H Smith (Senior Member)

CLERK: Ms S Hodgson

ON: 12 April 2023

REMOTE HEARING

APPEARANCES: Messrs R Soper (the appellant and his son)
Mr K Abbaas of the Valuation Office Agency for the respondent

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Summary of decision

1. Appeal dismissed. The panel found that the appeal property was capable of beneficial occupation on the material day and therefore it remained a hereditament.

Introduction

2. The appeal property was a garage and premises that comprised a single storey building, located in Putney in south-west London.

3. This was a 2017 rating list appeal. The proposal to which this appeal relates was made under Regulation 4 (1) (h) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 and sought a deletion of the appeal property's entry from the 2017 rating list with effect from 1 February 2020.

4. The challenge period ended when the Valuation Officer (VO) issued his final decision on 20 October 2021. The VO refused to alter the list and deemed the proposal to be not well founded. The appellant subsequently appealed to this Tribunal.

5. This tribunal decision document is not and does not purport to be a verbatim record of proceedings. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

6. The issue for the panel to determine was whether the appeal property should be deleted from rating list with effect from 1 February 2020.

Evidence and submissions

7. A consolidated evidence bundle was received at the Tribunal that included the challenge decision notice, photographs and maps of the subject property, correspondence between the appellant and the council, and the appellant and solicitors, copies of the planning applications, and the appellant's submission.

8. Mr Abbaas contended that at the material day the subject property remained a hereditament. No works or demolition had been started and work did not start until after the sale completed and the appellant was no longer the taxpayer at the subject property. He asked for the appeal to be dismissed.

9. Mr Soper argued that trade was restricted at the subject property from 31 January 2020 and then, due to factors outside of their control, any work was delayed. He stated they still had to pay the rates during this period and asked the panel to remove the assessment from the rating list from 1 February 2020 or reduce the rates from that date.

Decision and reasons

10. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    2(1) 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.

11. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No.2841).

12. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day was 1 February 2020, the day Mr Soper requested the deletion of the subject property from the rating list in accordance with 3 (4) (a) of the above regulations.

13. The panel heard from Mr Soper that the business closed on January 31, 2020, due to a sale of the building to developers. Part of the conditions of the sale were that the site was sold with vacant possession. Due to Covid-19, planning permission being sought by the developers was delayed and in turn the completion of the sale was also delayed. A second planning application submitted by the developers was eventually granted permission in December 2020 and the sale contract signed in July 2021.

14. The panel could only consider the issue of whether the property was a hereditament on the material day and subsequently whether it would be deleted from the rating list. The Tribunal did not have jurisdiction to determine if any relief was available through the local council, however it heard from Mr Soper that the council had already applied a three-month empty property relief.

15. The panel had regard to the statements made by Mr Soper at the hearing. He confirmed that no demolition work, or work of any kind, started until after 1 July 2021, once he had sold the property and was no longer the occupier. He confirmed to the panel that any work was being arranged by the developers and until the sale had completed in July 2021 the building was empty but remained standing.

16. Having considered the physical state of the property at the material day, and in line with the relevant legislation, the panel concluded that the property was capable of beneficial occupation at the material day. It had been an operating business the day before, no work or demolition had started, and no schedule of works was in place.

17. The appeal was therefore dismissed.

Date: 27 April 2023

Appeal number: CHG100690625

Right of appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.