VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal; Preliminary Issue; Proposal against 2017 Rating List following decision of the VTE; Consent Order; appeal dismissed.

APPEAL NUMBER:	CHG101194856	
RE:	54 Montem Lane, Slough SL1 2QJ (the "appeal property")	
BETWEEN:	Grant & Stone Ltd	Appellant
	and	
	Andrew Mouland (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Tuesday 8 April 2025	
BEFORE:	Ms L Dubow (Presiding Senior Member) Mr SC Kamalan (Senior Member)	
CLERK:	Miss K Hendry	
APPEARANCES:	Mr L Hatchwell of Colliers International (Appellant's Representative) Mr S Dowds-Jones of Colliers International Mr M Webb of Colliers International Mr A Khoshan (Respondent's Representative)	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was dismissed.

2. The appellant's representative accepted that the 2023 rating list entry was not unreasonable, following the panel's determination that it had no jurisdiction to investigate the accuracy of the 2017 rating list entry.

Introduction

3. A check was submitted on 18 September 2023 and completed on 28 November 2023. Following the check a proposal was submitted on 14 March 2024. A decision notice was issued by the Valuation Officer (VO) on 17 July 2024 reducing the RV in the 2023 rating list from £69,500 to £65,500 with effect from 1 April 2023.

4. The appeal property was in the list as a ‘workshop and premises’ which was located on Montem Lane.

5. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Preliminary issue

6. The VO raised two issues regarding the validity of the proposal.

   i. The identification of the grounds on which the proposal was made, and

   ii. whether a consent order qualified as a decision of the Tribunal for the purposes of Regulation 4(1)(e) of The Non-Domestic Rating (Alteration of List and Appeals)(England) Regulations 2009 (SI 2009/2268). (the ALA Regs”)

Relevant Law

7. The Non-Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009 (SI 2009/2268)

   8 – Disputes as to validity of proposals

   (1) Subject to paragraphs (2) and (3), where the VO is of the opinion that a proposal has not been validly made, the VO may, at any time after receiving the proposal, serve notice (an “invalidity notice”) on the proposer that the VO is of that opinion and stating—

   (a) the reasons for that opinion, and
   (b) the effect of paragraphs (6) to (10).

   (2) The VO may not serve an invalidity notice after an agreement has been reached under regulation 4 (arbitration) of the Procedure Regulations or the VTE has given notice under regulation 31 (notice of hearing) of those Regulations.

   (3) The VO may not serve an invalidity notice more than four weeks after the proposal to which it relates was served other than with the consent of the proposer, given in writing.

8. The Valuation Tribunal For England (Council Tax and Rating Appeals)(Procedure) Regulations 2009 (SI 2009/2269)

   33 – Appeals relating to validity of proposals

   33 – Where at the hearing of an appeal under regulation 10 of the CT Regulations or regulation 13 of the NDR Regulations (disagreement as to proposed alteration)—

(a) the LO or, as the case may be, the VO contends that the proposal was not validly made; and
(b) the VTE panel does not uphold the contention,

the VTE panel must not immediately proceed to deal with the appeal unless every party present or represented at the hearing so agrees.

Discussion

9. In support of the 2023 list proposal, the appellant's additional information in support of the proposed alteration related to the 2017 list entry.

10. The proposal submitted by the appellant on 14 March 2024 challenge grounds were 'IP disputes accuracy of RV shown in the rating list', the rating list was recorded as the 2023 rating list and the proposer's proposed alteration was £24,500 RV with an effective date of 1 April 2023. Along with the proposal the appellant submitted two supporting documents. The first was a statement to explain why the rating list entry should be altered. It stated

> "The alteration made by the VO by way of the notice dated 1 April 2017 I unfair, incorrect, excessive and bad in law and should be reduced to £24,500 with effect from 1 April 2017."

11. At the hearing, the appellant's representative accepted that the above statement had been submitted in error as no alteration to the appeal property's list entry had been made by the VO.

12. The second supporting document submitted was headed "information for 2017 rating list challenge" which referred to an entry of £38,000 RV. It went on to detail that a check was lodged against the 2017 list entry following a Consent Order granted by the Valuation Tribunal on 25 July 2023 in relation to Schenker House, Unit 3, LHR Portal, Heathrow, TW6 3FE. It sought a revised RV of £24,500 with effect from 1 April 2017.

13. The VO issued a challenge decision notice dated 17 July 2024 which clearly treated the proposal as a challenge against the accuracy of the 2023 list entry. In their decision notice, the VO conceded that the then existing list entry was excessive after determining that a 5% layout allowance should have been reflected. The effect of the concession of the 5% end allowance meant that the compiled list entry was reduced from £69,600 to £65,500 RV with effect from 1 April 2023. The VO's decision notice also gave the appellant the right to make an appeal to the Valuation Tribunal no later than 17 November 2024.

14. Following the introduction of Check, Challenge and Appeal, the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 were amended with effect from 1 April 2017. The former Regulation 8 which dealt with "Disputes as to validity of proposals" was replaced with a new Regulation 8 headed "Incomplete proposal". Following this amendment to the NDR appeals regulations, this tribunal no longer had any jurisdiction regarding the validity of the proposal. Instead, it was a matter for the Valuation Officer whether or not a proposal was compliant with statutory requirements.

15. In addition, Regulation 33 of the tribunal's procedure regulations was also amended. Following the amendment of Regulation 33, it was no longer open to the VO to raise any argument about invalidity or unlawfulness of a proposal, as a preliminary issue. Any issues relating to whether the proposal fulfils or meets statutory requirements should have been

resolved soon after the proposal was submitted in line with regulation 8 of the appeals regulations. If the proposal was accepted by the VO as complete and a decision made by the VO, regarding the substantive valuation issue(s) raised in the proposal, the proposer was then entitled to make an appeal against the VO's Challenge decision, unless the proposal was deemed well founded.

16. In this case, whilst the panel understood the VO's argument why they believed the proposal was invalid i.e. it was made on two different grounds and the relevant material and effective dates were not the same, it determined that it no longer had jurisdiction to consider any arguments relating to the invalidity of the proposal. Moreover, the panel was not impressed by the VO's attempt to draw a distinction between invalidity and unlawfulness of a proposal. Ultimately, it amounted to the same thing. The issue should have been resolved between the parties during the challenge stage.

17. Although Mr Hatchwell claimed that the VO's electronic portal did not allow Colliers to complete a 2017 list proposal *pro forma*, the panel did not accept this assertion. The reason being that, even if the portal was not working as it should have been, Colliers as a professional company should have contacted the VO for a work around solution, to protect its client's interest(s).

18. The respondent was also not free of blame for this sorry state of affairs. The VO should have identified the inconsistencies between the proposal and the information submitted in support. If the VO, for whatever reason, fails to properly investigate whether a proposal is compliant with statutory requirements, it is not open them to effectively pull the rug from under the appellant's feet after the case has reached the appeal stage. Given the changes to the NDR appeals regulations, the VO has to be far more proactive when scrutinising proposals and ensure they fulfil statutory requirements. The VO cannot sit on their hands as the proposal moves through the challenge stage and after a decision on the valuation issue(s) is released which is then appealed, then wake up to the fact that the proposal is flawed in some material respect.

19. Ultimately, having regard to the appeal before it, the panel determined that the proposal on its face related to the 2023 list. The proposal clearly referred to the 2023 list entry and proposed an alteration in the form of a reduction to £24,500 RV with effect from 1 April 2023. The proposal in that aspect at least was clear in the proposed alteration that it was seeking and therefore was not ambiguous. The proposal was therefore made in accordance with Regulation 4 (1)(a) and challenged the accuracy of the 2023 Rating List entry. The panel therefore held that it had jurisdiction to consider the accuracy of the 2023 Compiled List entry.

20. Although the evidence submitted in support of the proposal challenged the 2017 list entry and that technically that information formed part of the proposal, the panel determined that it did not have jurisdiction to also consider the accuracy of the historic 2017 Rating List entry. The fact that the proposal and the supporting information referred to two different rating lists was not a problem of the tribunal's making. This problem arose instead by the failings of both parties and the panel decided that the best and most appropriate course of action was to review the appeal documentation and decide for itself where its jurisdiction lay, since the parties were unable to assist it.

21. Ultimately, given its finding of fact that the proposal was made under Regulation 4 (1) (a) the panel determined that it had only got jurisdiction to consider the accuracy or otherwise of the compiled list entry for the 2023 Rating List. Moreover, when the appeal was submitted by

Colliers, it was registered as an appeal against the 2023 list. When the parties were notified of proceedings, notice of hearing referred to the 2023 list. The parties were therefore put on notice by the Tribunal that it had received a validly made appeal that related to the 2023 list and, in the absence of any settlement, the substantive valuation issue i.e. whether the 2023 list valuation for the hereditament was not reasonable would be determined at this hearing.

22. The fact that the appellant was denied the opportunity of challenging the accuracy of the 2017 list entry was for want of repetition not a problem of the tribunal's making. As previously stated, Colliers were a professional company and therefore they should have ensured that the correct proposal submission was made and that the information in support of the proposal was relevant to proposal that was actually submitted.

23. Given the above, it was not necessary for the panel to make a determination about whether a Consent Order qualified as a decision for the purposes of Regulation 4(1)(e) of the NDR appeals regulations because in this instance the proposal was found to be made under Regulation 4(1)(a).

Disposal

24. After the panel informed the parties that it had only got jurisdiction to consider the accuracy of the 2023 list entry, Mr Hatchwell accepted that the Valuation Officer's current assessment was accurate and that his company had no issues with it, so the appeal was dismissed.

Date issued to parties: 28 April 2025

Right of further 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.
