THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating appeal; 2010 Rating list; Factory and premises; Relativity to be adopted; End allowance for split site: Appeal allowed.

RE: Units 15/16 Wykeland Industrial Estate, Brighton Street, Hull HU3 4UW and Chaucer Foods Ltd, Brighton Street, Hull HU3 4UW

APPEAL NUMBER: 200433767011/285N10

BETWEEN:	Chaucer Foods Uk Ltd	Appellant
	and	
	Mr J Moore (Valuation Officer)	Respondent

PANEL: Mrs A Fielder (Senior Member)[1]

CLERK: Mrs H Beresford

REMOTE HEARING: 24 February 2021

APPEARANCES: Mrs L Rabbette (representing the Appellant)
Mr P Rabbette (expert witness for the appellant)
Mr A Garwood (representing the Valuation Officer)
Mrs G Fussey (expert witness for the Valuation Officer)
Mr G Brace (expert witness for the Valuation Officer)

Summary of decision

1 The appeal was allowed, and the entry in the valuation list was amended to £100,000 rateable value (RV) with effect from 4 September 2013.

Introduction

2 This appeal is brought in respect of a proposal which was served upon the Valuation Officer on 2 October 2019. The proposal stated that the two hereditaments named on the proposal, Units 15/16 Wykeland Industrial Estate, Brighton Street, Hull HU3 4UW and Chaucer Foods Ltd, Brighton Street, Hull

[1] In accordance with the Tribunal's business arrangements, I am authorised to consider and determine this appeal sitting alone.

HU3 4UW should be merged to form one hereditament with effect from 4 September 2013.

3 The Valuation Officer did not "well found" the proposal and the matter was referred to the Tribunal as an appeal under regulation 13 of The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. Since the appeal was listed for hearing by the Tribunal the parties had agreed that the two properties are contiguous, and they have been merged. The issues which remain outstanding for me to consider are detailed below.

4 The clerk asked Mr Rabbette whether there was a success related fee involved and if so whether its existence was compatible with their obligations to the tribunal as experts. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

5 Mr Rabbette's declaration of truth included a statement that he was not instructed under any conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving evidence and would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client's case.

6 I accepted the expert witness evidence on the above basis as the appeals are not complex and that to do otherwise would be contrary to Regulation 3 (Discharge of VTE functions – general) of the Procedure Regulations and is allowable due to the Tribunal's rules on admissibility of evidence (Reg 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in civil proceedings).

7 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.

8 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.

9 The appeal property consists of a factory with ancillary office accommodation and a small warehouse, both are linked by land which is used primarily for parking and loading. The property is situated on the Wykefield Industrial Estate in Hull.

10 The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Issues

11 The issues in dispute were:

- the level of end allowance to be adopted for fragmentation/split site; and
- the adjustment to be made for the asbestos roof and poor internal layout of the Chaucer Foods Ltd warehouse.

Evidence and submissions

12 Mrs Rabbette provided a bundle of evidence which included: a statement of case including submissions in respect of each issue; an expert witness report; assessment evidence; a valuation of £100,000 RV; photographs and details of the subject property; a map; a copy of correspondence between the parties; and details of comparable properties.

13 Mrs Rabbette, as advocate, introduced the case and gave a brief history of the negotiations between the parties. She explained that the majority of the issues had been resolved but that in her opinion as well as a 10% end allowance for the split site, an allowance of 5% should be included for the asbestos roof and 5% for poor internal layout of the Chaucer Foods Ltd warehouse.

14 Mr Rabbette, acting as expert witness, reiterated Mrs Rabbette's contentions. and argued that an end allowance for fragmentation/split site should be adopted. He presented eight comparable hereditaments which he believed demonstrated that an end allowance of 10% should be adopted.

15 Mr Rabbette explained that the property had been granted allowances for an asbestos roof and poor internal layout in the two previous rating lists, 2000 and 2005 but this had been removed in the Valuation Officers latest valuation. He stated that no changes had been made to the roof or layout of the property to warrant the removal of the allowance. Mr Rabbette asked the panel to confirm an RV of £100,000 with effect from 4 September 2013.

16 The Valuation Officer's representative, Mr Garwood, provided a bundle of evidence which included: a written submission; a location plan; a map; a proposed valuation; a copy of the proposal; the history of the appeal; photographs; and the valuation scheme.

17 Mr Garwood argued that with respect to the end allowance for fragmentation/split site a 10% allowance should be agreed, however, he stated that this could only be done if the allowances for the asbestos roof and internal layout were removed as he believed that this amounted to double counting.

18 Mr Garwood argued that in merging the properties together the value should have increased to some extent, £100,000 had been the RV for Chaucer Foods Ltd in its own right and he did not accept that the RV would remain the same if merged with another property.

19 Mr Garwood contended that no allowance should be allowed for an asbestos roof and that the allowance had been added to the valuation in error in this and the previous rating lists. He asked the panel to confirm an RV of £110,000 with effect from 4 September 2013.

Decision and reasons

20 Having given careful consideration to all of the evidence presented, I allowed the appeal.

21 In arriving at my decision, I was governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines that the Rateable Value of a non-domestic property shall be taken to be the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

22 In this case the parties had agreed that a main space price of £24.50/m^2 should be adopted.

23 In considering what allowance should be adopted for fragmentation/split site, I noted that Hull Cartridge Co Ltd, Bontoft Avenue is assessed in the same Valuation Scheme as the subject property and comprises an agreed merge of two contiguous hereditaments and has a 10% end allowance for fragmentation. I found that this assessment supported Mr Rabbette's contention that a 10% end allowance should be applied for fragmentation/split site.

24 With respect to the relativities to be adopted, I was aware that Mr Garwood believed that no allowance should be made for an asbestos roof as he believed that this allowance had been granted in error in previous rating lists. However, I noted that this allowance had been included in other valuations proposed by the Valuation Officer and that the ruling in *Barnard and Barnard v. Walker* (VO)

[1975] provided that relativities should not be disregarded unless good reason could be given for doing so.

25 I also found that a 5% allowance should continue to be allowed for poor internal layout of the Chaucer Foods Ltd building as no alteration had been made to the layout of the warehouse when the properties were merged.

26 In summary, I made the following findings: a 10% end allowance is to be adopted for fragmentation/split site; a further 5% should be allowed for the asbestos roof and 5% for poor internal layout.

27 I therefore found that an RV of £100,000 was fair and reasonable.

Floor	Description	Area	Rel	£/m^2	Value £
Ground	Warehouse	1391.79	0.9	22.11	30,774
Ground	AUSF	37.83	0.63	15.48	586
Ground	AUSF	9.56	0.63	15.48	148
Ground	Food Processing	1,460.49	1.04	25.43	37,137
Ground	Office/locker	17.49	0.99	24.32	425
Ground	Workshop	126.58	0.9	22.11	2,799
Mezzanine	Storage	17.49	0.45	11.06	193
Ground	Loading Bay	58.31	0.44	10.78	629
Ground	Mess/Locker	145.77	1.08	26.53	3,868
Ground	Offices	389.41	1.08	26.53	10,332
First	Offices	151.74	1.08	26.53	4,026
Ground	Store	35.51	0.88	21.56	766
First	Offices	210.41	1.08	26.53	5,583
First	Offices	150.60	1.03	25.21	3,796
First	Offices	24.80	1.13	27.73	688
Ground	Warehouse	322.72	0.95	23.28	7,511
	Sub total	4,550.50			£109,261
Bund wall		24.56			110
Steel weight		7.00			1,439
Security Cams		46.00			726
End Allowance				-10%	-£11,154
Total Value					£100,383
Rateable Value				say	£100,000

Order

28 Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to confirm the entry in the rating list to rateable value £100,000 with effect from 4 September 2013.

29 Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date: 11 March 2021
Appeal Number: 200433767011/285N10