THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating appeal; Warehouse and premises; Value of the yard; Main space price; End allowance for fragmentation: Value of the showroom; Appeal allowed in part.

RE: Mazars House & Lister House, 27 Gelderd Road, Gildersome, Morley, Leeds LS27 7LG and 161 Wakefield Road, Gildersome, Morley, Leeds LS27 7HH

APPEAL NUMBER: 472033940740/285N10

BETWEEN:	Mazars Llp	Appellant
	and	
	Mrs J Moore	Respondent
	(Valuation Officer)	

PANEL:	Mrs A Fielder (Senior Member) [1]
CLERK:	Mrs H Beresford
REMOTE HEARING ON:	24 February 2021
APPEARANCES:	Mr P Rabbette (representing the Appellant) Ms D Wilson (representing the Valuation Officer)

Summary of decision

1 The appeal was allowed in part, the two existing hereditaments are combined into one new hereditament with a rateable value (RV) of £166,000 with effect from 1 June 2011.

Introduction

2 This appeal is brought in respect of a proposal which was served on the Valuation Officer on 16 December 2019. The proposal stated that the two hereditaments named on the proposal, Mazars House & Lister House, 27 Gelderd Road, Gildersome, Morley, Leeds LS27 7LG and 161 Wakefield

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

Road, Gildersome, Morley, Leeds LS27 7HH should be merged to form one hereditament with effect from 1 June 2011.

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. Whilst it was agreed that the properties should be merged the following issues remained in dispute: the appropriate unadjusted levels of value to adopt for the office space and the external storage area; the value to attribute to the land; and the level of end allowance to adopt for the fragmented nature of the site.

4 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.

5 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.

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

7 Mr Rabbette confirmed that he was instructed under a conditional fee arrangement when he was acting as advocate and on a retained fee when he was acting as expert witness. 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.

8 I accepted the expert witness evidence on the above basis as the appeal is 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).

9 The appeal property is located just off the A650 Wakefield Road near to Leeds and the M1 and M62 Motorway network. It is situated in an established

commercial area, between Morley and the village of Gildersome. Mazars and Lister House, the office elements of the merged hereditament were constructed in 1998. 161 Wakefield Road is an industrial building built pre 1970 and previously occupied by Gildersome Tyres.

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.

Issues

11 It had been agreed by the parties that the two units should be merged together, the issues still in dispute were:

- the level of end allowance to be adopted for fragmentation;
- the appropriate unadjusted levels of value to adopt for the office space and the external storage area; and
- the value of the storage land.

Evidence and submissions

12 Mr Rabbette provided a bundle of evidence which included: a statement of case including submissions in respect of each of the three issues; assessment evidence; a proposed valuation of £142,000 RV; photographs and details of the subject property; a map; and details of comparable properties.

13 Mr Rabbette argued that the 10% end allowance for fragmentation should be increased to 12.5%. He explained that the merged hereditament suffers from a greater level of fragmentation than Mazars & Lister House did before the merger. Mazars & Lister House had been assessed with a 10% allowance for fragmentation. Mr Rabbette believed that this should be increased to 12.5% to reflect the additional disabilities faced at the merged hereditament.

14 In respect of the storage land, the parties were now in agreement that a price of £3.00/m^2 should be adopted.

15 In respect of the appropriate unadjusted levels of value to adopt for the office space, Mr Rabbette contended that the unadjusted rate of £120/m^2 applied to the main space proposed by the Valuation Officer was excessive; he argued that this should be reduced to £105/m^2. Mr Rabbette provided evidence of five comparable properties which he believed supported his contention that a main space price of £105/m^2 should be adopted.

16 Finally, Mr Rabbette argued that the area that had been '161 Wakefield Road' should be valued as an external store and that as such it should be valued at a rate of 10% of the unadjusted rate for the office accommodation which amounted to £10.50/m^2. He believed there should be a 5% reduction for its lack of heating

which he had determined is the standard level of deduction for this type of property. Mr Rabbette asked me to confirm an RV of £142,000 with effect from 1 June 2011.

17 The Valuation Officer's representative, Ms Wilson, provided a bundle of evidence which included: a written submission; a floor plan; a map of the location; a proposed valuation; a copy of the proposal; the history of the appeal; photographs of the property; scheme descriptions; comparable assessment; and comparable fragmentation evidence.

18 With respect to the end allowance for fragmentation, Ms Wilson argued that there are no other assessments valued on the same valuation scheme, with an allowance greater than 10%. She contended that a 10% allowance was sufficient to reflect the disadvantages of fragmentation to the site including the additional store. Ms Wilson had provided evidence of allowances for fragmentation which she believed supported her argument that whilst there are now three separate buildings, as opposed to two, the disadvantages do not warrant an allowance of 12.5%.

19 Ms Wilson confirmed that the price for the land had been agreed at £3.00/m^2.

20 With respect to the appropriate unadjusted level of value to adopt for the office space, Ms Wilson contended that £120p/m^2 is reasonable. She explained that this main space price had been agreed with Mr Rabbette on 22 July 2013 in a separate appeal for 'Mazars House & Lister House', prior to the merger. Whilst she accepted that there had been a number of settlements of offices on the same scheme since this agreement, she provided evidence which she believed supported her contention that a price of £120/m^2 is reasonable.

21 Ms Wilson argued for a price of £33.50/m^2 for the external store. This price had been derived from a valuation scheme for industrial properties. Ms Wilson had deducted an allowance of 2.5% to reflect the lack of heating. She believed that the price of £10.50/m^2 adopted by Mr Rabbette was unreasonably low. Ms Wilson asked me to confirm an RV of £167,000 with effect from 1 June 2011.

Decision and reasons

22 Having given careful consideration to all of the evidence presented, I allowed the appeal in part.

23 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

24 As both parties were in agreement, I accepted that the land should be valued at £3.00/m^2.

25 I went on to consider what allowance should be adopted for fragmentation. I found the Valuation Officer's evidence to be the more compelling with regard to this aspect of the valuation. Reyrolle House, Pontefract Road, Stourton, Leeds and Leeds Family Health Authority, Brunswick Court, Bridge Street, Leeds, had similar disabilities caused by fragmentation and had been given a 5% allowance. I found that the addition of the external store is not of sufficient disadvantage to warrant an increase to the allowance already applied for fragmentation of 10%.

26 In respect of the appropriate main space price for the office space, I looked at the evidence of comparable properties provided by both parties for similar office buildings. I found that I could not attach significant weight to the comparable properties cited by the appellant's representative because they were considerably smaller than the subject property. I determined that the best comparable property was Trimble House, Gelderd Road, Gildersome Morley, LS27 7LG at £120/m^2. This property had also been cited by Mr Rabbette as a comparable property in an earlier appeal in 2013 in the valuation of Mazars House & Lister House and had led to the agreement for that part of the appeal hereditament of £120/m^2. Accordingly, I found that a value of £120/m^2 continued to be a fair and reasonable price.

27 I turned to the appropriate main space price for the external store. I did not accept the Valuation Officer's assertion that this part of the appeal hereditament should be derived from a valuation scheme for industrial properties as it was no longer a stand-alone assessment and now forms part of the appeal hereditament as a store. I found that as such it should be valued at a rate of 10% of the unadjusted rate for the office accommodation which amounted to £12.00/m^2 and that a 5% allowance for no heating should be adopted.

28 In summary, I made the following findings: a 10% end allowance is to be adopted for fragmentation; an unadjusted rate of £12.00/m^2 and a 5% allowance for no heating should be adopted for the external store; a value of £120/m^2 should be adopted for the office space and the land should be valued at £3.00/m^2.

29 I therefore find that an RV of £166,000 is fair and reasonable.

Floor	Description	Area	£/m^2	Value
Ground	Office	277.95	113.40	31,520
First	Office	285.24	113.40	32,346
Second	Office	283.47	113.40	32,145
Ground	Office	280.69	108.00	30,315
First	Office	280.69	108.00	30,315
Ground	store	66.05	8.67	573
	Land	280	3.00	840
	Open spaces	55	150	8,250
				166,304
			say	166,000

Order

30 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 £166,000 with effect from 1 June 2011.

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

Date: 15 March 2021

Appeal Number: 472033940740/285N10