VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Factory and Premises; accuracy of rateable value in list; allowance for fragmentation and poor layout; comparable evidence. Decision: Appeal dismissed.

RE: Bankside Paterson Ltd, Catwick Lane, Brandesburton, Driffield, East Yorkshire, YO25 8SB

APPEAL NUMBER: CHG100073243

BETWEEN:	Bankside Patterson Ltd	Appellant
and	Valuation Officer	Respondent

PANEL: Mr M Aspinall (Senior Member)
Mrs C Parkes

CLERK: Mr G Wayman

REMOTE
HEARING ON: 10 November 2020

APPEARANCES: Mr J Abbott of Altus Group for the appellant
Mrs R Anderson for the Valuation Officer

Summary of decision

1. The appeal was 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. Mr Abbott appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC). Mr Abbott's declaration of truth included a statement that he was instructed on a contingency fee basis. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he 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.

5. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations, and was allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

6. This was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was £149,000 from 27 September 2017. The appeal was made on 11 May 2020 against the VO's Decision Notice of 9 April 2020 in respect of the appeal property. The VO's decision was to treat the appellant's proposal as not well founded and the existing entry of £149,000 RV was deemed as correct.

7. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the panel.

Issue

8. The matter before the panel was whether or not an end allowance of 10% for fragmentation and poor layout should be applied to the appeal premises, as proposed by the appellant. The VO contended that no allowance was warranted and sought dismissal of the appeal.

9. All relevant factual information was not disputed by the parties.

Decision and reasons

10. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 27 September 2017 (material day) for this appeal, which was confirmed in an email dated 14 March 2019 from the appellant's representative.

11. The subject hereditament consisted of steel portal frame with profile metal walls. The offices are portacabin style co-joined in an elongated fashion. The property is located on the outskirts of the village of Brandesburton, almost equidistant between Driffield and Beverley, and close to the A165 in what is very much a rural setting.

12. Mr Abbott contended that the property should have an allowance of 10% to reflect the fragmentation and poor layout of the site. He stated that there were 4 distinct different aged units on the site the engineering workshop, warehouse, modular office block linked to site reception and the main manufacturing workshop. Mr Abbott pointed out that there was no interconnection between buildings and the site had two accesses.

13. He stated that the appeal property is held on a freehold basis and the original manufacturing facility was built in 1972. The portacabins were added at a later point in the 1970s and there were various additions over the years the most recent gained planning consent in 2000 for an extension to the main manufacturing facility and a 2010 planning application to extend the production line in the same building. The eaves height of the units' range in size from 3.8 m to 6.1 m, dependent on the unit. The portacabins are joined in an elongated fashion with links. Mr Abbott had calculated the whole site including buildings at 46,000 sq m. He also pointed out that the original production facility cannot be easily converted to warehouse use due to eaves height.

14. To support an allowance Mr Abbott presented 5 rating assessments that had been granted allowances for fragmentation and layout ranging from 10% to 13%. Mr Abbott contended that these properties were comparable large industrial sites geographically close to the appeal property. They consisted of multi units, like the appeal property and in the same mode and category of occupation. Mr Abbott argued that this evidence showed that similar properties with similar disadvantages as the appeal property had been granted allowances.

15. Mr Abbott contended that his evidence supported an allowance due to the poor layout and fragmentation of the appeal property. He highlighted that the site consisted of a number of different aged units built piecemeal on a sprawling site. The buildings on the site had been constructed over a 40 year period. Therefore, in Mr Abbott's opinion a 10% allowance was warranted.

16. Mrs Anderson did not agree that an allowance was warranted for the subject property. She referred to the comparable evidence presented by Mr Abbott and stated that in her opinion these properties were more disadvantaged and have allowances to reflect this.

17. The majority of the appellant’s comparable evidence was made up of multiple survey units from a wide range of ages and some distance away. The subject property was constructed in 1972 with little additions since then other than a temporary extension and paint store in 2017.

18. The Valuation Scheme the subject property is currently placed in states that properties may include some later extensions, the main part of these properties will have been built during 1971-1979. This description fits the subject property and supports the fact that an allowance is not warranted.

19. Mrs Anderson stated that in her opinion no other evidence had been submitted to support the fact that the subject property suffers from a poor layout or fragmentation.

20. The panel has heard what both parties have had to say regarding whether or not an allowance was appropriate for any perceived disadvantages due to poor layout and fragmentation. Mr Abbott had provided examples of other properties throughout the Yorkshire area where such allowances had been made by the Valuation Officer.

21. The panel consider that they were only provided with basic information on these properties, no plans or photographs were provided to assist them. Unfortunately, the panel found that there was a lack of specific detail given by Mr Abbott to enable it to make an acceptable comparison between the properties.

22. The panel was not persuaded by the appellant’s representative’s evidence, in this case, as insufficient details had been provided which could assist it. Furthermore, any allowances given on the comparable properties, would be based on the details and circumstances in place for those properties.

23. Having placed little weight on the comparable evidence presented by the appellant’s representative it was the panel’s opinion that there was a lack of any other direct evidence to support an allowance.

24. In conclusion the panel determined that the evidence submitted by the appellant’s representative was insufficient to substantiate his view that any end allowance was warranted for the subject property.

25. The burden of proof was on the appellant to justify his case for a reduction which in the panel’s opinion he had failed to do and therefore the appeal was dismissed.

Date: 18 November 2020

Appeal number: CHG100073243