THE VALUATION TRIBUNAL FOR ENGLAND

Summary of Decision: Non-domestic rating appeal; Accuracy of Compiled list RV in 2017 Rating List; Warehouse & Premises; Price per m² to be adopted; Comparable evidence; Comparison between 2010 and 2017 rating lists; Appeal dismissed

Re: EXCL FNT ADJ, 114-150, Hackney Road, London E2 8ET

APPEAL NO: CHG100092714

BETWEEN:	D & J Simons & Sons Ltd	Appellant
	And A Ricketts (Valuation Officer)	Respondent

PANEL: Mr A Ramsay (Senior Member)
Mr P Phelps

CLERK: Mr G Wayman

REMOTE HEARING: 13 September 2021

APPEARANCES:

Mr N Katseph of Vail Williams representing the appellant
The Respondent Valuation Officer was represented by Mr A McKillop

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Summary of decision

1. Appeal dismissed. Rateable Value (RV) £201,000 confirmed as correct.

Introduction

2. This was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was originally £350,000 from 1 April 2017, with a description of Warehouse and Premises. This was a compiled list appeal so the material day was also 1 April 2017. At the challenge stage the Valuation Office Agency (VOA) reduced the RV to £201,000, as the VOA reduced the base value, and altered the rating list with effect from 1 April 2017. The appeal was made on 23 February 2021 against the Valuation Officer's (VO) Decision Notice of 29 October 2020 in respect of the appeal property (hereditament) and the RV of £201,000. The VO's decision was to treat the appellant's proposal as not well founded and the entry of £201,000 RV was deemed as correct.

3. The panel was informed that the core of the subject property was a Victorian multi-storey industrial property set over 4 storeys in height plus a basement level. The majority of the property was built c - 1870 on a cast iron frame with wooden floors. The front office/warehouse building was added in the 1950's. The property had remained almost completely unchanged since then. There were strict floor loading restrictions on the Northern and Southern warehouse blocks and the vast majority of the property had reached the end of its economic life. The main loading point was directly off Hackney Road with HGV's having to park in the street to offload and forklift trucks then trolley goods into the warehouse. There was only one goods lift in the centre of the property. The total area of the subject property was 6,894.70 m².

4. The property is located in the Hackney Road Conservation Area. This means that any new developments must preserve and enhance the character of the area. The locality is known for its Victorian industrial history. The Old Street area of Shoreditch and Hoxton is the location of 'Tech City'. This area extends into E2 along the A10 and around the overground stations. The EC and E2 post codes of Hackney Billing Authority (BA) hold numerous industrial properties which, in many cases, have been refurbished to provide accommodation that competes with Cat B quality offices, as well as good quality retail property.

5. Hackney Road adjoins the A10 and Old Street and the far western end of Hackney Road. It was contended by the VO that this put the subject property on the border of two gentrified and gentrifying areas.

6. 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.

7. 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.

8. Mr Katseph 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 Katseph's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

9. Mr Katseph in his declaration 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.

10. 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).

11. Mr McKillop on behalf of the Valuation Officer (VO) stated he was acting as both advocate and expert witness.

12. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

13. 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 it by the parties should not be construed as an indication that that statement or item of evidence had been overlooked.

Issue

14. The issue between the parties concerned the RV of the appeal property. Mr Katseph, for the appellant, sought a reduced RV of £138,500 on a base value of £17.10 per m². Mr McKillop, for the VO, defended the existing RV of £201,000, which was on a base value of £32.50 per m² and sought dismissal of the appeal.

Decision and reasons

15. 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).

16. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal.

17. The panel was informed that the appeal property was held on a freehold basis therefore, there was no rental evidence on the property.

18. It was Mr Katseph's opinion that to establish a value for the appeal property the agreed 2010 Rating List valuation should be the starting point. The appeal property had been placed in the 2010 rating list with an RV of £134,000. Mr Katseph stated that there were very few comparable sites within the borough and surrounding area of Hackney. Therefore, looking at the previous list as a guide and looking at the growth between the lists gives a pattern for values in the locality. It was Mr Katseph's opinion that for this type and size of property there had been no growth between the 2010 and 2017 rating lists.

19. Mr Katseph stated that as there were very few comparable properties in the locality, he has had to look at a wider area.

20. Mr Katseph provided details of industrial properties within Hackney and Tower Hamlets to show the percentage change in values between the 2010 and 2017 rating lists. Mr Katseph stated that it was clear at the lower end of the market, properties that had sizes ranging from 2000 to 3000 m², that the comparison between the lists showed that there had been movement in the market. It did not matter if they were old or new properties. However, at the top end of the market where the appeal property sits, taking into account its age, size and condition, there was very little movement in the market for this type of property.

21. Mr Katseph stated that when comparing his comparable warehouses against the subject property, not one assessment could be found that had increased by 50% over the previous list. Only one hereditament had increased in value by 44%. All the other property values had either remained the same or gone down from their 2010 list values.

22. To further support his valuation Mr Katseph referred to Hays Business Services Ltd, Leven Road, London, E14. He stated that this was a similar freehold Victorian property some 50% larger than the appeal property situated in a similar residential area as the appeal property. This property had been valued at £20 m² and was valued on the same basis in the last list.

23. In conclusion, Mr Katseph stated that due to the appeal property's age and condition it was his opinion that there was very little demand for this type of property in this location. Therefore, taking account of his comparable property at Leven Road and his argument of there being very little movement between the 2010 and 2017 rating lists, it was Mr Katseph's opinion that his evidence supported a base rate of £17.10 m² for the appeal property. He, therefore, requested the panel to confirm his revised valuation of £138,500.

24. On considering Mr Katseph's submissions, the panel found no substance in the argument put forward by him in comparing changes in Rateable Value between the 2010 and 2017 Rating Lists for comparable industrial properties as a factor to support the inaccuracy of the current assessment.

25. The panel noted that since the 2010 rating list came into effect, the London Olympics took place in 2012 and it attracted investment and regeneration into the East of London where the appeal property is situated. The appeal property also sits to the West of Tower Hamlets near to Old Street roundabout known as silicon roundabout and within the surrounding ''tech city'. This location had also undergone investment and re-generation since 2010. Therefore, in the panel's opinion a comparison cannot be made to the values within the 2010 rating list.

26. The panel was aware that the purpose of a revaluation exercise which, in this case took place 7 years apart, was to value each hereditament appearing in the List completely afresh taking into account the rental values and economic factors at the antecedent valuation date of 1 April 2015 and the physical factors at the compilation date of 1 April 2017. It was not a mathematical exercise whereby every entry gets uplifted to the same degree. Therefore, little weight was placed upon Mr Katseph's argument on this issue.

27. On examining Mr Katseph's comparable property at Hays Business Services Ltd, Leven Road, London, E14 the panel noted it was some 50% larger than the appeal property at 9,935 m². The panel was also informed that Leven Road was essentially the old Gas holder estate behind a social housing estate in Blackwall/Poplar. This area was not part of the gentrified zone in Tower Hamlets as contended by the VO. It was noted that this property was valued at £20 m² in the 2017 rating list and was valued on the same basis in the 2010 list. However, the panel placed little weight on this comparable due to the fact that it was approximately 50% larger than the appeal property and, in the panel's, opinion, was located in a less desirable location.

28. Mr McKillop stated that it was his opinion that the assessment of the subject property should be looked at a fresh and not based on the 2010 list entry.

29. In support of his valuation Mr McKillop referred to the following comparable evidence. These properties were located within one mile of the subject property and in his opinion supported the rate of £32.50 m² adopted for the subject property.

30. The first comparable was Frank House, 36-56 Orsman Road, London N1 5QJ this was a more modern property being post war. It had a total area of 6,080 m² and the main space had been valued at £58.50 m².

31. Acme Studios, Gnd Flr, 1st & 2nd Flrs, 15 Orsman Road, London N1 5RA, significantly smaller at 3,000 m² and the main space of this property had been valued at £116.60 m².

32. 129-131 Mace Street, London E8 3RH, smaller at 4,500 m² and more modern being post war, the main space on this property was in the list for over £75 m², which was supported by its December 2015 rent.

33. Mr McKillop also pointed out that there were other industrial units close to the subject property within the E1, E2 and EC postal districts. These properties ranged in size from 2,000 to 3,000 m² and the range of values attached to these properties ranged in value from £50 to £100 m². Mr McKillop pointed out that these properties have been placed within the rating list with significantly greater rates per m² than the subject property.

34. Mr McKillop accepted that the appeal property was Victorian and had disadvantages attached to it namely floor loading and layout but he had reflected this in his valuation. Mr McKillop further accepted the appeal property was large but it had been occupied for a great number of years. It was located close to 'tech city' and the silicon roundabout at Old Street which were areas that had seen a lot of investment and regeneration in recent years.

35. Mr McKillop stated that in the absence of a rent on the appeal property taking into account his comparable evidence from the locality it was his opinion that a rate of £32.50 m² was reasonable.

36. Having considered the basket of evidence presented and taken it all into account the panel considered that it had been demonstrated that the value adopted by the VO was not excessive. The panel consider that this is supported by the comparable evidence presented by Mr McKillop of industrial units within a mile of the subject property, which the panel placed most weight on.

37. Consequently, in appeals of this nature, the burden of proof rested on the appellant's representative to illustrate that the appeal property's assessment was overvalued. In relation to this appeal, Mr Katseph had failed to persuade the panel that the basic rate adopted by the VO and his valuation was excessive. The appeal is therefore dismissed.

Appeal No: CHG100092714

Dated: 7 October 2021