THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; factory; end allowance for split unit disputed; adjustment needed to the plant and machinery element in the valuation; appeal allowed in part.

RE: 1-2 Shield Drive, Worsley M28 2QB

APPEAL NUMBER: CHG100094930

BETWEEN:	Pharmatube Ltd	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

PANEL: Mrs T Watson (Chairman and Senior Member)

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.1 on 19 July 2021

APPEARANCES: Mr K Batty (Appellant's representative)
Mr B Slater (Respondent's representative)

Summary of decision

1. Appeal allowed in part. The rateable value was reduced to £58,500 with effect from 1 April 2017.

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 relevant legislation[1]. The VTE may determine the form of any hearing.

3. Therefore, in pursuance of the relevant regulation[2] 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. This appeal has been brought in respect of 1-2 Shield Drive, Worsley (the “appeal property”), which was currently entered in the 2017 rating list as “factory and premises” at rateable value £59,000, effective from 1 April 2017.

5. The challenge process began when the appellant had made a proposal to the respondent on the ground that the entry shown in the rating list on 1 April 2017 was wrong and that it should be reduced to rateable value £55,000.

6. No alteration was made to the rating list by the respondent.

7. In accordance with regulations[3], an appeal was made to the Valuation Tribunal for England (VTE) on the ground that the valuation for the appeal property was not reasonable.

8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by me before coming to a decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issues

9. Prior to the hearing, the parties had made progress in resolving the issues in dispute.

10. The only remaining issue between the parties was a 4% split unit end allowance sought by the appellant’s representative, which the respondent’s representative opposed.

11. There was also a one penny difference in the unit price per square metre adopted in the parties’ respective valuations, but this was inconsequential as the difference was lost in the rounding at the end of the parties’ valuations.

---

[1] 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).
[2] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).
[3] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, regulation 13A.

Evidence and submissions

12. The appellant's representative had submitted documentation from both parties in respect of this appeal. It included correspondence exchanged between the parties, their revised valuations, the statutory definition of rateable value, comparable evidence and an external photograph of the appeal property. I was also provided with the 2010 rating list decision in respect of the appeal property: *Pharmatube Ltd v Mr D Grace (Valuation Officer)* [VTE, 423018682968/113N10, 15 October 2014].

13. Both parties had revised their valuations for the hearing. Mr Batty now sought a reduction to rateable value £56,000 and Mr Slater requested that the rateable value be reduced to £58,500.

14. Mr Batty, as appellant's representative, appeared in a dual role of advocate and expert witness. He stated that he had inspected the appeal property and was aware that in giving expert evidence his responsibility was to the VTE. Further, he stated that he was not instructed under a conditional fee arrangement or other success related fee.

15. The dual role is allowable in VTE proceedings having regard to procedure regulations[4] and rules regarding admissibility of evidence[5]. However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

16. Mr Slater appeared as advocate.

17. Both parties were able to participate in the hearing, with no significant problems with technical equipment or software. Mr Slater turned off his camera during his presentation to improve the audio quality. Mr Batty joined the hearing by telephone. Each party was given the opportunity to question the other party.

Decision and reasons

18. Mr Batty stated that the appellant had received a 4% allowance in the 2000 rating list. He argued that this was because two units had been combined, resulting in duplication of offices and toilets, and that it was "normal convention" that if an occupier was taking a second unit then a reduction in rent would be granted.

19. Mr Batty had not provided any plans showing the layout of the appeal property, nor were there any internal photographs. However, he explained that the two parts of the appeal property were a mirror image. Although his written submission had referred to interconnection difficulties between the two parts, Mr Batty informed me that the dividing wall between the two units had

---

[4] Regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.
[5] Regulation 17(2)(a) (Evidence and submissions) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

been removed. When asked, he stated that the wall was removed a few years after the appellant acquired the property in 1985.

20. The parties had stated that a Valuation Tribunal panel had decided on a 4% allowance in the 2000 rating list but neither party had submitted a copy of that decision. I also noted that an allowance was never carried forward into the 2005 or 2010 rating lists.

21. Mr Slater argued that there were no fragmentation or duplication issues and that the 4% adjustment in the 2000 rating list was to reduce the tone unit price per square metre.

22. Mr Slater argued it was not "normal convention" to give an allowance where two units were combined. He said that tenants do pay less for larger properties but this is reflected in a quantum adjustment. The price per square metre adopted on this property, he argued, already reflected its size.

23. In Mr Batty's evidence, two comparable properties were provided where a split unit allowance has been made by valuation officers at 5% and 7.5%. I asked him how they supported his case. He told me that he had included them because over the last three or four years, valuation officers were telling him they did not give such allowances. I understood the point he made but also noted that he made no comparison between the appeal property and those properties.

24. It was clear to me that the parties disagreed on the reason for a 4% adjustment in the 2000 rating list. Ultimately, the burden is on the appellant in these proceedings to show to my satisfaction the reason for that adjustment. While I accept Mr Batty had represented the appellant in the 2000 rating list, he was not able to provide me with any documentary evidence to support his contention that the adjustment was for a split unit. On the other hand, Mr Slater has shown that a Valuation Tribunal panel sitting on 15 October 2014 had not made any such allowance.

25. Further, there were no photographs or plans from Mr Batty and I was not satisfied that the issue complained of is a disability that warrants any special adjustment in the valuation.

26. Finally, the rent on the appeal property is £96,075 from 20 May 2016, so it is considerably more than the rateable value. Mr Batty stated this was a pension fund rent and he did not place as much reliance on this type of evidence as he would if it was agreed in the open market. Mr Slater stated that no matter what one said about the rent, it was far in excess of the rateable value, and was what an occupier and landlord believed the property was worth.

27. Having regard to the foregoing, I was not satisfied I had sufficient evidence or grounds to allow the reduction sought by Mr Batty.

28. Nonetheless, Mr Slater conceded that the rateable value was wrong and that it should be reduced to £58,500 from 1 April 2017. This was because the valuation had been adjusted to remove two of the four air compressors shown within it. The parties explained to me that they were removed from the property before 1 April 2017. Mr Batty accepted that there were two air compressors remaining on site. Both parties agreed the revised addition for plant and machinery as £704. The appeal was therefore allowed in part to that extent.

Order

29. 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 respondent to reduce the entry in the rating list to rateable value £58,500 with effect from 1 April 2017.

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

Refund of appeal fee

31. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: 11 August 2021

Appeal number: CHG100094930