THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Offices and Premises; Accuracy of RV in list; tone of the list; whether car parking should be reflected in the basis of assessment; appeal dismissed as the evidence showed that the existing valuation was reasonable.

Re: Health Shield Friendly Society, Electra Way, Crewe CW1 6HS

APPEAL NUMBER: CHG 100102350

BETWEEN: Health Shield Friendly Society (Appellant)

and

Dal Virk (Respondent)

(Valuation Officer)

PANEL; Salma Yousef (Chairman) and Carole Anne Dodsley

CLERK: David Slater (Deputy Registrar)

REMOTE HEARING held on Tuesday 27 July 2021

APPEARANCE(S); James Le Brocq from Altus Group (Appellant's representative)

Ms Nicola Costello (Valuation Officer's representative)

Summary of decision

1. The appeal was dismissed as the Valuation Officer's existing valuation of £201,000 Rateable Value was reasonable. No value for car parking was reflected in the office basis of assessment that had been adopted.

Introduction

2. This was a 2017 Rating List appeal. Prior to the challenge, the list entry for the appeal property was £201,000 Rateable Value with effect from 15 October 2018. The material day was 15 October 2018, being the date when the property's entry was inserted into the rating list. The appellant made a proposal (challenge) on 6 June 2019 seeking a reduced entry of £123,000 Rateable Value with effect from 15 October 2018. After considering the evidence submitted and exchanged during the challenge, the Valuation Officer decided that the proposal was not well founded. The Valuation Officer issued a decision notice on 1 December 2020 and the appellant appealed to the tribunal on 31 March 2021.

3. The appeal property was a modern headquarters type office building that was situated around one mile from Crewe town centre on the Electra Way estate. The appellant occupied the appeal building on a 125 year lease.

4. Mr Le Brocq appeared on behalf of the Appellant in a dual capacity as an 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 Le Brocq advised the Tribunal that he was instructed under a conditional fee arrangement.

5. Mr Le Brocq 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 (RICS) regardless of whether or not the evidence supported his client's case.

6. The panel accepted his 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 in England).

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

8. Ordinarily, the tribunal would have considered and determined this appeal, following a public face to face hearing. However, in view of the Covid 19 pandemic and to avoid justice being further delayed, a remote hearing was held.

9. 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.

10. 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.

11. 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 the panel before it came to a decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Preliminary issue

12. The Valuation Officer had objected to the inclusion of Mr Le Brocq's Expert Witness statement which was not provided during the challenge stage. It was submitted for the first time with the appeal.

13. Unfortunately, the Valuation Officer's objection had not been recorded on the tribunal's appeals database and therefore until Ms Costello raised the issue, neither the panel nor the Deputy Registrar were aware of any preliminary issues that needed addressing.

14. Ms Costello provided a copy of the Valuation Officer's objection to the new evidence which had been emailed to both the appellant and the respondent on 23 April 2021. As Mr Le Brocq was unable to provide any evidence to show that the appellant had made any representations against the respondent's objection, the Deputy Registrar advised in open tribunal that the new evidence should have been automatically removed from the bundle, in line with the

tribunal's directions. However, this had not been done as the Valuation Officer's objection had not been recorded by the tribunal's administration.

15. Ms Costello said that, having read Mr Le Brocq's expert witness statement she would not be prejudiced if it was admitted. She was therefore asked if she was prepared to give her consent to its admittance and as she was, so the new expert witness statement was admitted.

Issue in dispute

16. Prior to the hearing commencing, Mr Le Brocq informed the panel that he was not objecting to the Valuation Officer's unadjusted tone of value of £125 per m^2. The only issue remaining in dispute was whether the 90 car spaces that had been identified should be included as a separate line entry. The Valuation Officer had valued the car parking area at £11,700, 90 car spaces at £130 each.

17. Mr Le Brocq argued that any value attributable to the car parking element was already reflected in the office tone of value and therefore his revised valuation which he asked the panel to confirm was £189,000 Rateable Value.

Decision and reasons

18. On behalf of the Valuation Officer, Ms Costello explained that when rental evidence for similar headquarter style offices had been analysed, any value attributable to car parking had been removed before the rent was analysed. She referred to three comparable properties in particular;
    i. Millennium Gate, Westmere Drive, Crewe,
    ii. Tatton House, Westmere Drive, Crewe and
    iii. Global House, Crewe Business Park, Westmere Drive, Crewe

19. Mr Le Brocq argued that the assessments of Tatton House and Global House supported the appellant's case as car parking had not been separately valued.

20. The appellant's main comparable properties were drawn from Gawsthorpe House in Westmere Drive and Mallard Court in Mallard Way, Crewe. Unlike the appeal property, where the whole office block and the car park comprised a single hereditament, the appellant's comparable buildings had been subdivided into a number of rating assessments to reflect that they were buildings in multiple occupation.

21. In response to questions, Mr Le Brocq accepted that the allocated car spaces for each office occupier in Gawsthorpe House and Mallard Court would be situated outside the office hereditament. It being accepted that each occupier would have to travel down or through landlord's common parts to reach their allocated car space(s).

22. As the car spaces surrounding Gawsthorpe House and Mallard Court did not form part of each respective office demise any value attributable to the car spaces in those buildings could not be legitimately reflected in the rating assessments following the Supreme Court's judgment in *Woolway (VO) v Mazars* [2015] UKSC 53. The panel found that this comparable evidence did not therefore assist the appellant's case.

23. In open tribunal, the Deputy Registrar explained that provided the car park and the offices comprised a single hereditament, as was the case with the appeal property, the value attributable to the car park could either be reflected in the office basis, in which case its tone of value would normally be higher or shown as a separate line entry at the foot of the valuation.

24. There was no direct rental evidence relating to the appeal property to assist the panel. The Valuation Officer had relied on three pieces of indirect rental evidence in respect of Millennium Gate, Tatton House and Global House.

25. Ms Costello's evidence had shown that, when the rental evidence for Millennium Gate, Tatton House and Global House had been analysed for rating purposes, any value attributable to the car parking at those buildings was stripped out. Having regard to the rental analysis of those buildings, the Valuation Officer's adopted basis of £125 per m² for the appeal property's offices appeared to be reasonable. Mr Le Brocq said he accepted this but argued that any value attributable to the car spaces should be subsumed or reflected within the office tone.

26. Mr Le Brocq had included the Valuation Officer's summary valuations for Millennium Gate, Tatton House and Global House within his expert witness report. Even though the value

attributable to the car spaces had been stripped out, before the rental evidence was analysed by the Valuation Officer, there was no separate line entry to reflect the valuation of the car spaces within the respective valuation breakdowns, unlike the situation with the appeal property.

27. The Deputy Registrar advised in open tribunal that especially in cases where car spaces fall outside the hereditament, they should form a separate entry in the rating list. Whether they do or not was initially a matter for the Valuation Officer unless an appeal was made. Mindful of the fact that Mr Le Brocq had highlighted the inconsistency in treatment of the valuation of car spaces, the Deputy Registrar referred the panel to the Court of Appeal's judgment in *Ladies Hosiery & Underwear Ltd v West Middlesex Assessment Committee* [1932] CA 679. This judgment highlighted that whilst uniformity of assessment was desirable, it should not be sacrificed for uniformity of error.

28. Based on the evidence before the panel, it appeared that a number of potential car park hereditaments may have been omitted from the rating list, if so this was a matter for the Valuation Officer to address as part of his statutory duty to compile and then maintain an accurate rating list. As far as the panel was concerned its jurisdiction was limited to the accuracy or otherwise of the appeal property's assessment.

29. Having established that the Valuation Officer had derived his office basis based purely on the adjusted rents for office space, the appellant's argument that the value attributable to the car spaces should be reflected in the basis was rejected. The tone of value for the office space at the appeal property was reasonable and did not reflect any value for the car parking element. Therefore it was in order for the Valuation Officer to reflect the value of the car spaces as a separate line entry within the valuation breakdown. The panel being satisfied that the Valuation Officer's adopted tone of value for the appeal property was not unreasonable having regard to the valuations of other headquarter office type buildings like Millennium Gate, Global House and Tatton House. As previously stated, if the value attributable to the car parking had been reflected in the valuation, the panel would have expected the tone of value for the appeal property to be higher than it was currently.

30. In view of the foregoing, the appeal was dismissed as the Valuation Officer's existing assessment was reasonable.

Date: 7 September 2021

Appeal number: CHG 100102350