VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Factory and Premises; accuracy of rateable value; Valuation Scheme; Comparable evidence considered; Size ; found that weight of evidence did not support a reduction in the assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed.

RE: Ferrymoor Way, Barnsley, S72 7BN

APPEAL NUMBER: CHG100120756

BETWEEN:	Sash Products Ltd	Appellant
	and	Respondent
	Ritchie Roberts	
	(Valuation Officer)	

PANEL: Ms L Sharkey (Senior Member)

Mr A Wheeler

CLERK: Mr L Bertie

REMOTE HEARING ON: 10 March 2021

APPEARANCES: Mr P Wilmore of Rupert David Ltd for the Appellant.

Mr N Moran for the Valuation Officer.

Summary of decision

1. Appeal dismissed.

Introduction

2. The appeal before the panel was received against the Valuation Officer's (VO) final Decision Notice of 25 August 2020 in respect of the appeal property and the RV of £224,000, with a description of Factory and Premises. This was a compiled list appeal, so the material day was also 1 April 2017. At the challenge stage the VO's decision was to treat the appellant's proposal as not well founded and the entry of £224,000 RV with effect from 1 April 2017 was deemed as correct. The appellant sought a lower rateable value.

3. 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.

4. 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.

5. Mr Wilmore 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 Willmore's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

6. Mr Willmore 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.

7. 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).

8. The Valuation Officer's representative, Mr Moran, advised the panel that he appeared as an advocate for the case but was an expert on general valuation matters.

9. 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 has been overlooked by the panel.

10. The subject property comprises a ground and first floor factory and premises It is located with other industrial properties. The area of the subject property is 10315.01 m^2 with a base rate of £20 per m^2. It is owner occupied.

Issue

11. The issue between the parties concerned the RV of the appeal property and specifically, the £m2 rate that should apply. The Appellant sought a reduction based on a £m2 of £17 to RV £191,000. Mr Moran for the VO sought to defend the existing RV of £224,000 which was based on £20 m2.

Evidence and Submissions

12. It was the Appellant's contention in his challenge, that the rateable value of appeal property had been increased disproportionately from the 2010 Rating List compared to other properties in the same valuation scheme. He argued that the adopted rate of £ 20 per m^2 was excessive and should be reduced to a lower base rate of £17 m^2.

13. The Valuation Officer considered that tonal evidence of similar properties in the locality supported the appeal property's £m2. It was in Valuation scheme 380043 which covers industrial type properties built 2000 onwards (or of a similar standard to property of this age) and situated at Park Springs and Grove Park Grimethorpe. The value ranges from £20.00, to £60.00 per square metre or per unit, if appropriate based on a size matrix.

14. He sought a confirmation of £224,000 Rateable Value effective from 1 April 2017 and a 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). 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. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

16. In line with the decision in Lotus and Delta v Culverwell (VO) [1976] RA 141 , the panel would usually look to any rental evidence to support the correctness or otherwise of the appeal property. However, as there was no rental evidence submitted on the subject property or comparable properties in the locality, the panel looked at the assessment evidence submitted by both parties.

17. The panel was referred by the appellant's representative to 19 industrial properties at Park Springs ,Spring Hill Road, Grimethorpe, Barnsley S72 7PT which were in the same valuation scheme 380403, which showed that most of these properties had had a reduction in the £m2 adopted from the 2010 Rating List compared to the 2017 Rating List figure. These properties had £m2 values between £20.00 - £30.00 per m2 . He contended that based on the evidence

of reductions of these comparable properties , the £m2 currently applied to the appeal property was too high and should be reduced to £17 m2 .

18. The panel noted the Valuation Officer's contention that the best comparable was at Unit 9 Park Springs ,Spring Hill Road, Grimethorpe, Barnsley S72 7PT which was previously 5498.91 m2 in size (RV £128,000) when the £m2 adopted was £30.00m2. This was subsequently reduced to £20.00 m2 with the increase in its area to 8,267 m2 in accordance with the matrix adopted in the valuation scheme resulting in an increased rateable value of £172,000. Consequently, this supported his contention that the £m2 adopted of £20.00 m2 for the appeal property was based on the size of the property and was not excessive.

19. The panel determined that the other comparable properties assessments had higher £m2 adopted which reflected the fact that they were much smaller than the appeal property and therefore less weight was given to these comparable properties.

20. In addition, the Panel found no substance in the argument put forward by the appellant's representative 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. The panel was aware that the purpose of a revaluation exercise, which in this case took place seven 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 and it was not a mathematical exercise whereby every entry gets uplifted to the same degree.

21. Moreover, the panel also determined no supporting evidence was put forward that properties over 10,000 m2 should have a lower £m2 and consequently, no weight was given to this argument.

22. The Panel was mindful that the onus of proof is on the appellant to demonstrate that a reduction was warranted. In this instance, the appellant had failed to convince the Panel that a lower Rateable Value than that contended for by the Valuation Officer's representative was appropriate.

23. The appeal was therefore dismissed.

Date: 6 April 2021

Appeal number: CHG100120756