THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Warehouse and premises; Rateable value definition; Flooding allowance; Appeal dismissed.

RE: J S Hubbuck Ltd, Bridge End, Hexham NE46 4JP

APPEAL NUMBER: CHG100131449

BETWEEN: Geoff Hubbuck (represented by R V A Surveyors Ltd) — Appellant

And

Richie Roberts (Valuation Officer) — Respondent

PANEL: Ms N E Talbot-Hadley (Senior Member)

CLERK: Ms S Hodgson

ON: 15 April 2021

APPEARANCES: Mr D Morris of R V A Surveyors Ltd for the appellant
Mr A Steel of the Valuation Office Agency for the respondent

REMOTE HEARING

Summary of decision

1. Appeal dismissed. The existing valuation is not excessive and the entry in the rating list is confirmed at £110,000 rateable value (RV) with effect from 4 January 2019.

Introduction

2. This was a 2017 rating list appeal. The RV of the appeal hereditament was £110,000 with effect from 4 January 2019. This was a compiled list appeal, so the material day was also 4 January 2019. The challenge stage was completed on 12 September 2020. The challenge sought a

mixed age allowance of 5% and a 12.5% allowance for ‘fragmentation, drainage etc’ resulting in a reduction in RV to £96,000.

3. The appeal hereditament was a warehouse and premises, located in Hexham, Northumberland. It comprised five industrial units and incorporated a showroom area. It measured 4,648m^2 in total.

4. 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.

5. 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.

6. The Tribunal Business Arrangements provide that a hearing will normally take place before a panel of two Members of the Tribunal, including at least one Senior Member. However, the Arrangements also provide that a Senior Member may sit alone to avoid a postponement of the hearing where a second Member of the Tribunal is unable to sit.

7. In respect of this hearing, another Member of the Tribunal was unable to sit. I am therefore satisfied that, in order to avoid a postponement of the hearing, I am authorised by the Tribunal Business Arrangements to hear and determine this appeal sitting alone.

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

Issue

9. The issue I had to decide was whether any allowance should be granted for the hereditament comprising mixed age units and whether any allowance should be granted for ‘fragmentation, drainage etc’.

Evidence and submissions

10. Mr Morris, for the appellant, contended that the subject hereditament had been valued in a scheme with only one other assessment. He stated that the other property in the scheme, the sawmill located next door, was the best comparable for the subject and it was receiving an

allowance for ‘fragmentation, drainage, etc’ of 12.5%. Mr Morris provided evidence of a flood at the subject property in 2015 and suggested that if the sawmill was receiving an allowance for drainage, that the subject property could have the same drainage problems due to the proximity to the comparable property, which could exacerbate the flooding.

11. It was clarified during the hearing that the 12.5% allowance that Mr Morris had requested for flooding, included the 5% allowance that had already been granted for the layout of the property, and therefore he was only requesting an additional 7.5% for flooding.

12. Mr Morris also believed a mixed age allowance should be granted as the subject hereditament comprised units that were built at different times, with the most recent additions being in 2019. He stated that the site was valued using two different base rates which supported his request for a mixed age allowance. Finally, Mr Morris challenged the base rates used for the hereditament. He advised the scheme had a range from £20.47 to £67.60 and believed the subject hereditament should be valued at the lowest rate of £20.47 per square metre (psm).

13. Mr Steel, for the respondent, explained that the mixed age of the hereditament had already been accounted for by valuing the units with different base rates and therefore an allowance was not warranted. He advised that the sawmill was in receipt of a fragmentation allowance as it comprised 14 buildings across the site that were not attached to each other. The subject property was not fragmented but was already in receipt of a 5% allowance for the layout of the site.

14. Mr Steel challenged Mr Morris’ argument on the base rate as the valuation that had been submitted with the challenge adopted the same base rates as the respondent’s valuation. The initial response and the final response to the challenge listed the base rate as an agreed issue and this was not challenged further. Mr Steel had not prepared a case to support the current base rates in the valuation due to this.

Decision and reasons

15. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No.2841).

16. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 4 January 2019.

17. During Mr Morris’ summary at the hearing, he conceded the 5% mixed age allowance. I was satisfied with this request as the evidence from Mr Steel supported the contention that the mixed age of the hereditament had already been accounted for. Therefore, this part of the appeal was dismissed.

18. I heard from Mr Morris that, in his opinion, the subject hereditament should be valued at a lower overall price per square metre, £20.47. I reviewed the papers before me and noted that Mr Morris had raised this issue in writing during the challenge stage, however, the valuation submitted in the challenge and before me today, adopted the respondent's base rates. Additionally, the proposed RV that Mr Morris stated on the challenge documentation was £96,000 which was in line with the valuation submitted.

19. No evidence was provided to support Mr Morris' contention for a change in the base rate. As the valuation and proposed RV did not include a lower base rate, but rather used the current rates of £22.75 and £26.45, I dismissed this part of the appeal.

20. The main issue in this appeal was whether an allowance for 'fragmentation, drainage, etc' should be granted due to the flooding that occurred at the subject property. I had sight of the photographs provided by Mr Morris which showed the site during a flood in 2015. He stated that flooding was an ongoing issue when there was adverse weather.

21. I noted that the hereditament had been repaired following the 2015 flood and an insurance claim was made. Mr Steel advised that when a property is flooded, it is generally repaired, as it was in this case. He stated it was only in exceptional cases that a permanent allowance would be granted for flooding issues.

22. I was informed by Mr Steel that the subject property was not located on the River Tyne and that there were properties situated between the river and the subject property. I heard that the properties located next to the river did not have an allowance for flooding.

23. Mr Morris did not provide any rental evidence to suggest that the rental value of the subject property was affected by flooding in the area.

24. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 defines rateable value:

2 (1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year] on these three assumptions—

(a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

(c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

25. While there had previously been flooding at the property, that caused damage, the third assumption of the RV definition is that the hypothetical tenant is responsible for the repairs of the property. This leads back to the second assumption that the property is in a reasonable state of repair immediately before the tenancy begins.

26. No evidence had been put before me to indicate the flooding at the subject property was an exceptional case and it would therefore be the responsibility of the hypothetical tenant to provide insurance to maintain the property.

27. While there was some ambiguity over exactly what was covered by the allowance for 'fragmentation, drainage etc' at the comparable property, I was persuaded by Mr Steel's contention that the allowance was not for flooding. Had it included an allowance for flooding, I would have expected this to be clearly indicated within the description. Further to this, no evidence had been provided by Mr Morris to persuade me that the same drainage issues were apparent at the subject property.

28. As there was no evidence to show that the rental value of the subject property had reduced because of flooding, and there was no evidence to show the insurance premiums had increased, I found that the subject property did not warrant an allowance being granted for the issue of flooding.

29. Therefore, based on the evidence before me and the reasons I have outlined above, no additional allowances are warranted at the subject property and consequently, the appeal is dismissed.

Date: 30 April 2021

Appeal number: CHG100131449