THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Workshop and Premises; accuracy of rateable value in list; is allowance applicable for poor layout and sloping site; comparable evidence. Decision: Appeal dismissed.

RE: Unit 2, 3, 5 & 8 Heaton Mersey Industrial Estate, Barton Road, Stockport, Cheshire, SK4 3EG

APPEAL NUMBER: CHG100134711

BETWEEN:	Macpac Ltd	Appellant
and	Valuation Officer	Respondent

BEFORE: Mrs L Bryning (Senior Member – sitting alone)

CLERK: Mr G Wayman

REMOTE
HEARING ON: 14 January 2021

APPEARANCES: Mr A Fowke of Altus Group for the appellant
Mr B Slater for the Valuation Officer

Summary of decision

1. The appeal was dismissed.

Introduction

2. This was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was £115,000 from 1 April 2017 and entered into the rating list as Workshop and Premises. The appeal was made on 16 October 2020 against the Valuation Officer's (VO) Decision Notice of 3 July 2020 in respect of the appeal property. The VO's decision was to treat the appellant's proposal as not well founded and the existing entry of £115,000 RV was deemed as correct.

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 Fowke 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 Fowke's declaration of truth included a statement that he was instructed on a contingency fee basis. He 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.

6. I 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). I therefore considered the expert evidence and attached such weight to it as I saw fit.

7. I sat alone as the Senior Member due to the unavailability of a second member. This is entirely appropriate and is in accordance with the Tribunal's Business Arrangements which state: -

   "HEARINGS WHERE A MEMBER IS UNABLE TO SIT

   Where a panel member is unable to sit for any reason or fails to attend, they will be replaced by another member wherever possible. However, a hearing will proceed with a Senior Member alone where necessary, to avoid postponing the hearing."

8. 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 me by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by me.

Issue

9. The matter before me was whether or not end allowances of 7.5% for poor layout and 5% for sloping site should be applied to the appeal premises, as proposed by the appellant. The VO contended that no allowance was warranted and sought dismissal of the appeal.

10. All relevant factual information was not disputed by the parties.

Decision and reasons

11. 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.

12. The subject hereditament was built in the 1970s and it consists of a steel portal frame with brick walls and profile metal roof. It is made up of four different units that have been merged together and split over two different floor levels.

13. As at the challenge stage the property was held on a leasehold basis and it was held on four separate leases which all expired on 4 October 2019. At the challenge date, the appellant was holding over on all four leases. The total passing rent was £168,650 pa. The rents were all agreed with different effective dates between 2009 and 2016.

14. Mr Fowke contended that no weight should be attached to the rent passing due to the various effective dates to the four separate leases and only one of the rents is effective close to the AVD.

15. Mr Fowke's pointed out that the appeal property is made up of four separate units with only three being contiguous. These three units are separated by internal dividing walls with only small doorways between them. In Mr Fowke's opinion, this creates a layout difficulty which is not reflected in the valuation. Two of the units are approximately four feet lower than the others as the appeal property is situated on a sloping site.

16. In support of an allowance, Mr Fowke's provided a number of comparable assessments which shows allowances should be granted when a property suffers from a poor layout and sloping site.

17. Mr Fowke presented a number of rating assessments that had been granted allowances for layout and sloping site. The allowances ranged in value for layout from 5% to 10%, whereas for sloping site, they ranged from 5% to 15%. Mr Fowke contended that these properties were comparable properties within the locality. He further argued that this evidence showed that similar properties with similar disadvantages as the appeal property had been granted allowances.

18. Since the challenge decision was issued, Mr Fowke had settled two challenges from the same estate and same scheme as the appeal property, allowances were given for poor layout. These properties are;

- 32-38, Station Road, Stockport, Cheshire SK4 3QT – allowance of 7.5% for layout granted.

- Unit 7, Heaton Mersey Industrial Estate, Barton Road, Stockport, Cheshire SK4 3EG - allowance of 5% for split/divide.

19. Mr Fowke stated that the best comparable assessment is 32-38 Station Road this property is on the same estate some 500 metres away. Based on the comparable properties presented, Mr Fowke stated this evidence showed that properties that suffer from poor layout have been granted allowances. It also showed that properties on sloping sites have also been granted allowances. In Mr Fowke's opinion, allowances of 7.5% for poor layout and 5% for sloping site are appropriate and requested the panel to confirm a revised RV of £100,000.

20. The VO stated that he agreed that the appeal property suffered from some disadvantages. However, end allowances are not given to all properties as in many cases the disadvantages are already reflected in the rateable value attributed to the properties by the VO.

21. In this case, the VO was of the opinion the RV already reflected any imperfections found to the site and experienced by the current tenant. The VO pointed out collectively the appellant is paying a rent of £168,650 pa for the whole hereditament and the RV applied to the property is £115,000. The VO was of the opinion that this reduced RV in comparison with the passing rent reflected all disadvantages and a further allowance was not warranted. The VO presented details of other multi units within the immediate locality that did not have allowances granted.

22. In the VO's opinion, as the current RV is considerably lower in comparison with the passing rent, the current occupier is willing to pay. Any disadvantages have been taken into account therefore no further allowances are warranted consequently, the VO requested the appeal to be dismissed.

23. I heard what both parties have had to say regarding whether or not an allowance was appropriate for any perceived disadvantages due to poor layout and a sloping site. I am aware that the VO's argument is that any characteristic flaws within the appeal property are already reflected in the reduced RV compared to the rent paid. Whereas Mr Fowke argued that in line with similar properties that have been granted allowances, the appeal property should also be given end allowances for poor layout and a slopping site.

24. I initially considered the comparable assessments provided by Mr Fowke and found that I was only provided with basic information on these properties, no plans or photographs were provided to assist me. Unfortunately, I found due to the lack of specific detail given on these properties I was unable to make an acceptable comparison between the properties.

25. I also took into account the recent allowances given to similar properties on the same estate namely 32-38, Station Road and Unit 7, Heaton Mersey Industrial Estate. Again even though Mr Fowke's stated that these properties were similar to the appeal property, I only had basic information on these properties before me. I had no rental evidence before me to show if the RVs applied on these properties were in excess of their passing rents, to make a comparison to the appeal property.

26. I am aware that there may be many properties that have allowances granted for several reasons but it does not automatically apply to all property. Furthermore, any allowances given on the comparable properties, would be based on the details and circumstances in place for those particular properties.

27. I accepted that the rental information given for the appeal property was historic however, the occupiers were currently and willing to pay £168,650 pa which is far in excess of the current RV. Even though this rent was historic, it gives a good indication of value, consequently I placed weight upon it.

28. I am persuaded by the VO's argument that the correct level of value has been applied to the appeal property with all its circumstances, negative and positive, taken into account and is reflected in the current RV.

29. In conclusion, I determine that the evidence submitted by the appellant's representative was insufficient to substantiate his view that any end allowances were warranted for the subject property.

30. The burden of proof was on the appellant to justify his case for a reduction which in my opinion he had failed to do and therefore the appeal was dismissed.

Date: 26 January 2021

Appeal number: CHG100134711