VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; workshop and premises; rental evidence; comparable assessments; appeal allowed in part.

RE: Atkinsons Joiners Ltd, Montalbo Road, Barnard Castle DL12 8ED

APPEAL NUMBER: CHG100141772

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

PANEL:	Mr J Rockliff (Senior Member) Prof. P Catterall
CLERK:	Mrs H Beresford
REMOTE HEARING ON:	16 November 2020
APPEARANCES:	Mr W Salvin of WHT Salvin (Appellant's representative) Mr R Fuller (for the Valuation Officer)

Summary of decision

1. The appeal was allowed in part, the assessment was confirmed at rateable value (RV) £16,250 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Atkinsons Joiners Ltd, Montalbo Road, Barnard Castle DL12 8ED (the 'appeal property'), which was entered in the 2017 rating list as 'workshop and premises' at rateable value (RV) £16,750, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Atkinsons Joiners Ltd made an appeal to the Valuation Tribunal for England (VTE). The appeal was made because the valuation officer decided not to alter the 2017 rating list following the appellant's check and challenge. The appellant had sought a reduction to RV £10,757 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the valuation officer had not made any alteration to the rating list in his challenge decision notice.

5. The appeal hereditament comprises a workshop and premises with an overall area of 444.28m^2. It is located on Montalbo Road which forms part of an industrial estate consisting of various industrial units, the majority of which were built before 1995. The appeal property is situated at the end of a cul-de-sac which serves other units and a number of residential properties.

6. The appellant's representative, when appearing as expert witness, stated that he was not on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client's case.

7. The panel has accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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. It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

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. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

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

Issue

12. The base level of value adopted for the appeal properties was not agreed. The valuation officer has adopted £35.90/m^2 in respect of the appeal property, but the appellant sought a reduction to £30.00/m^2 in line with his comparable property.

Evidence and submissions

13. Mr Salvin, the appellant's representative, had submitted evidence which included: a written submission; photographic evidence; a location plan; a map of the comparable properties; the current 2017 assessment; and a revised valuation in respect of the appeal property.

14. Mr Salvin contended that the closest comparable property to the appeal property was a unit occupied by Carrs Billington, this property also had its frontage on Montalbo Road. He argued that the appeal property was situated in a less visible and less accessible spot than the comparable property as it was at the very end of the cul-de-sac. However, the subject property had a main space price of £35.90/m^2 whilst the comparable property was valued at £30.00/m^2.

15. Mr Salvin argued that, due to its location the appeal property would attract a lower rental value than the property occupied by Carrs Billington. He also explained that the comparable unit was in a more accessible part of Montalbo Road with traffic passing in both directions and with room for deliveries and for heavy goods vehicles to turn around, this was not the case at the subject property. Mr Salvin asked the panel to confirm a RV of £10,575 for the appeal property.

16. The valuation officer's representative Mr Fuller had provided: details of two comparable properties; a valuation of the properties; a comparable rental summary; and a response to the challenge. Mr Fuller gave an oral submission in response to Mr Salvin.

17. Mr Fuller argued that as there was no rental evidence for the subject property the valuation of the subject property had been based on all relevant rental evidence available. He had provided details of two other properties on the industrial estate: Units 1-2 Carrosserie House and JT Atkinson and Son Ltd. In respect of the appellant's comparable property Mr Fuller explained that it was three times the size of the subject property at 1358.7m^2 and consequently was of a lower value in terms of main space, this was because the price per metre square decreases due to the lack of demand for larger properties. He also pointed out that the main space price for Carrs Billington of £30.00/m^2 had been further adjusted to £22.24/m^2 for lack of heating and insulation. Mr Fuller asked the panel to confirm the RV of the appeal property at £16,750.

Decision and reasons

18. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

19. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

"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"

20. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

21. The panel noted that there was no rental evidence for the subject property. Mr Salvin had argued that the property on Montalbo Road occupied by Carrs Billington was comparable to the subject property as it was situated on the same Road to the edge of the main industrial estate. The panel were unable to attach significant weight to this evidence as Mr Salvin had not compared like with like. The subject property was significantly smaller than this property being only 444.28m^2 as compared to 1358.7m^2. As well as this the panel noted that the subject property had been built in 2009 whilst the comparable property had been built circa 1965-1970.

22. Furthermore, the panel was aware that both properties had been valued as part of a size matrix used by the Valuation Officer to maintain consistency. Properties in the range of 400m^2 to 500m^2 had been valued at £35.90/m^2 and properties in the range 1,000m^2 to 1,500m^2 had been valued at £30.00/m^2 (a lower rate due to lack of demand for larger properties). Carrs Billington had been further adjusted to £22.24/m^2 due to lack of heating and insulation.

23. The panel found the evidence of comparable properties presented by Mr Fuller to be the most persuasive. Mr Fuller had provided a rental summary for two properties with rents close to the antecedent valuation date (AVD). In particular Units 1-2 Carrosserie House, Harmire Enterprise Park, a property of 356.80m^2 which was built in 2006, had an adjusted rent of £16,200 which devalued to £44.81/m^2 and had an adjusted main space value of £38.60/m^2. The panel found that the evidence suggested that a tone was well established in the area and the evidence supported £35.90/m^2 for the subject property.

24. The panel noted Mr Salvin's argument that the close proximity of residential properties was a cause for concern, as it might result in restrictions being placed on the use of the industrial

property. However, the panel found that Mr Salvin had not provided any evidence to support this argument.

25. The panel did accept that the access to the subject property was hampered by a lack of space and that this was not the case for other properties on Montalbo Road. There was very little space in front of the property which made it impossible for heavy goods vehicles to turn around and therefore it was difficult to make deliveries to the subject property. With this in mind the panel held that an end allowance for poor access of 2.5% should be adopted.

Floor	**Description**	**Area m^2**	**Price /m^2**	**Value £**
Ground	Workshop	408.37	35.90	14,660.00
Ground	Office	35.91	39.49	1418.00
Total		**444.28**		**16078.00**
	Rough ground	577.04	1.20	692.00
Total				**16,770.00**
	Poor access		- 2.5%	419.00
				16,351.00
			RV say	**16,250**

26. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

27. 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 Valuation Officer to amend the entry in the rating list to show a revised assessment of £16,250 RV for the appeal property, with effect from 1 April 2017.

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

Date: 27 November 2020

Appeal numbers: CHG100141772