VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 [SI 1992 No 556]; the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 [SI 2009 No 2268]; Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269];

APPEAL NUMBER: CHG100150088

RE: Unit 6 & 7, Chesford Grange, Woolston, Warrington, WA1 4RQ (the "subject hereditament")

BETWEEN: Brunzl UK Ltd — Appellant

and

The Valuation Officer — Respondent

SITTING: *remotely via Microsoft Teams conference call*

ON: Tuesday 23 November 2021 at 10:00 hours

BEFORE: Mr AV Clark (Vice President)

CLERK: Mr W Hamilton IRRV(Dip) A.Inst.Pa

APPEARANCES: Ms E Draycott of Altus Group for the Appellants
Mr K Collins of Valuation Office Agency for the Respondent

DECISION and STATEMENT OF REASONS

Summary of Decision

1. The appeal is allowed.

2. I am satisfied that –

   (1) the rateable values shown in the 2017 non-domestic rating lists for the subject hereditament is not reasonable; and that

(2) the correct rateable value for subject hereditament is £118,000 with effect from 1 June 2018.

3. A copy of my valuation for the subject hereditament is appended to this decision and statement of reasons.

Introduction

4. This statement of reasons is not, and does not purport to be, a full verbatim record of proceedings. I gave proper judicial consideration to all the evidence and arguments put forward in the course of the proceedings whether or not it is fully set out in this statement of reasons.

Background

5. This appeal has been brought pursuant to Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 [SI 2009 No 2268] (the "ALA Regulations"). The appeal challenges the Respondent's decisions that the Appellants' proposal (also known as a "challenge" under the "check, challenge, appeal" framework) was not well-founded.

6. The Appellants' proposals sought an alteration to the 2017 non-domestic rating list on the grounds that the rateable value for the subject hereditament is incorrect.

Remote hearing

7. On 29 July 2020, the President of the Tribunal issued the COVID-19 Variation of Practice Statement. In that statement, the President has determined, for the purposes of Regulation 6(3)(g) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations"), that the form of any hearings before the Tribunal would include "remote hearings". Specifically, the President states that this is to include the use of Microsoft Teams conferencing software. Further, the President directs that remote hearings would be the default until such time as it is safe for the Tribunal to return to normal practice.

8. In accordance with that Practice Statement, I conducted the hearing of the appeal remotely via Microsoft Teams conference call. I attended the hearing by way of video-link, as did the Clerk to the Tribunal and the representatives for both parties. For the avoidance of any doubt, I am satisfied that those present were able to fully participate in the proceedings.

Appellant's representative

9. Ms Draycott, a member of the Royal Institution of Chartered Surveyors, appeared on behalf of the Appellant as advocate and expert witness. At the commencement of proceedings, I confirmed that I has read Ms Draycott's written declaration that she was instructed under a contingency based fee, a type of success-related fee arrangement. In this declaration, Ms Draycott

stated that she understood and accepted that her duty was to the Tribunal in giving her evidence, that she would comply with this duty, and the requirements of her professional body, regardless of whether or not the evidence supported the Appellant's case. Ms Draycott also confirmed this orally prior to commencing her submissions and evidence.

10. Noting the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), the I nevertheless accepted this expert witness evidence on the above basis because –

    (1) the appeal was not complex;

    (2) to do otherwise would be contrary to the requirements to deal with cases proportionately, avoiding unnecessary formality and ensuring parties are able to participate in proceedings (provided by Regulation 3 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 [SI 2009 No 2269] (the "Tribunal Procedure Regulations")); and

    (3) it was nevertheless permissible whether or not it would be admissible in a civil trial (provided by Regulation 17(2)(a) of the Tribunal Procedure Regulations).

11. I therefore considered Ms Draycott's expert evidence and attached such weight to it as it saw fit.

Relevant Law

The non-domestic rate

12. Part III of the Local Government Finance Act 1988 (the "Act") makes provision for the payment of a non-domestic rate in respect of non-domestic hereditaments in England. The rateable value of a non-domestic hereditament, which is used to determine the amount of the rate payable, is defined at paragraph 2(1) of Schedule 6 to the Act (which is commonly referred to as the "rating hypothesis").

13. For these proceedings, it is not necessary to set out all the provisions but suffice it to say that the rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2015 (the "antecedent valuation date").

The material day

14. Matters affecting the physical state or enjoyment of the hereditament and the mode and category of occupation are, amongst other things, taken to be as they were on the "material day". The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 [SI 1992 No 556] (the "MD Regulations") provides for determining the material day. It is not necessary to set out the

provision in full but suffice it to say that the material day for the purpose of the present appeal is 1 June 2018, being the date the subject hereditament came into existence.

Decision

15. The parties' representatives took me through their respective submissions and evidence orally at the hearing. I carefully considered the parties' respective submissions, together with the legislative tests set out above. I am grateful to the parties' representatives for their submissions.

16. The subject hereditament is a 1970's factory and premises comprising of two interconnected semi-detached warehouse units, which were merged with effect from 1 June 2018 when the occupier of Unit 7 took up occupation of Unit 6. The building is of steel portal frame construction with brick infill to the external walls and profiled metal cladding. The property consists of warehouse space and office accommodation over a ground floor and mezzanine level. It extends to some 3,699.09m^2. The two units are held on two separate leases with different start dates, with one commencing pre-2006 and the other commencing at the merger of the units and which have been arranged so as to align their termination. The combined rent for the two units is £206,393 per annum. The subject hereditament is currently shown in the 2017 non-domestic rating list with a rateable value of £135,000, calculated on an adopted base rate of £39/m^2.

17. The crux of the dispute between the parties turns on the appropriate base rate to applied to the subject hereditament in the calculation of its rateable value. There is no dispute over the areas adopted or the relativities used in respect of different areas, and there is agreement that a 5% end allowance for the merged units is warranted. The Appellant contend for a base rate of £35/m^2 and sought a revised rateable value of £119,000.

18. During the hearing, I identified an arithmetical error in the Appellant's representative's proposed valuation. In short, the relativity adopted for three of the line entries was out by a matter of pence per square metre, which once corrected resulted in the actual proposed rateable value being £118,000. The Respondent's representative made no representations in relation to this correction. I sought the advice of the Clerk to the Tribunal in relation to this correction, but I found that there was no reason why this clear typographical error could not be corrected by me in dealing with the appeal. I therefore accepted that the Appellant's representative's contention was for a revised rateable value of £118,000.

19. Based upon the rental evidence in the locality, the Appellant's representative proposed the base rate should be adopted based upon a sliding scale as follows:

Hereditament size	£/m^2
0m^2 – 200m^2	£60/m^2
200m^2 – 300m^2	£54m^2

$300m^2$ – $1,000m^2$	£$52m^2$
$1,000m^2$ – $1,500m^2$	£$45m^2$
$1,500m^2$ – $1,900m^2$	£$42m^2$
$1,900m^2$ – $3,000m^2$	£$38m^2$
$3,000m^2$ – $5,000m^2$	£$35m^2$
$5,000m^2$ – $7,500m^2$	£$33m^2$
$7,500m^2$ +	£$30m^2$

20. I was referred by the parties to multiple proposed comparable assessments of nearby hereditaments. In particular, I found the following rents useful –

(1) Unit 10 Chesford Grange, a new letting from 1 October 2013 at a rent of £38,632 per annum, which analyses to a base rate of £22.59/m^2;

(2) Unit 11 Chesford Grange, a 1433.03m^2, on a new lease from 1 March 2013 at a rent of £26,098 per annum, which analyses to a base rate of £29.40/m^2;

21. These rents, when taken in conjunction with the other rents included in the large basket of evidence not only demonstrated to me that the subject hereditament had been overvalued by the Respondent but also that the rental market in this area was somewhat sluggish in 2013 and had only been subject to fairly modest growth since then. In fully analysing the basket of evidence it was clear to me that the Appellants' representative had adopted a very sensible approach in providing a scale of base rate values linked to the size of comparable hereditaments

22. In view of the above conclusions, I am satisfied that the Respondent's valuation for the subject hereditament is not reasonable. Accordingly, I allow the appeal in full.

Order

23. The Tribunal orders –

(1) the Respondent shall alter the entry in the 2017 non-domestic rating list to show the subject hereditament with a rateable value of £118,000 with effect from 1 June 2018 as set out in the appended valuation; and

(2) the Respondent shall comply with this order within two weeks.

Refund of appeal fee

24. Further, in view of the above decision, the appeal fee shall be refunded.

Appeal Number: CHG100150088 **Issued:** 22 December 2021

Appendix: The Tribunal's valuation

Unit 6 & 7, Chesford Grange, Woolston, Warrington, WA1 4RQ

Floor	Description		Area m²	Price per m²	Value
Ground	Warehouse		1995.90	£34.13	£68,120
Ground	Office		255.00	£42.00	£10,710
Mezzanine	Stockroom		242.00	£17.06	£4,129
Ground	Warehouse Unit 7		1074.31	£34.13	£36,666
Ground	Office Unit 7		131.88	£42.00	£5,539
		Total	**3,699.09**		**£125,164**
	Merged Units - Less 5%				£6,258
					£118,906
	wef 1st June 2018			**Say**	**£118,000**

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