THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; warehouse and premises; office and premises hybrid valuation; appeal allowed.

Re: Company Shop Ltd, Wentworth Way, Barnsley S75 3DH

APPEAL NUMBER: CHG100172182

BETWEEN:	The Company Shop Group	Appellant
	and	
	J Moore (Valuation Officer)	Respondent

BEFORE: Dr J Johnson (Senior Member sitting alone)

CLERK: Mrs C McAvoy

REMOTE HEARING No.4 on 20 October 2021

APPEARANCES:
Mr D Comer of Knight Frank LLP on behalf of the appellant as both advocate and expert witness
Mr H Wadsworth on behalf of the respondent Valuation Officer as both advocate and expert witness

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Summary of decision

1. Appeal allowed; the appeal property's assessment was reduced to £440,000 Rateable Value (RV) with effect from 3 April 2019.

Introduction

2. This appeal has been brought in respect of the following: A proposal was made against the valuation notice in respect of Company Shop Ltd, Wentworth Way, Barnsley S75 3DH. Due to a clerical error, the office unit was included with the assessment between 1 April 2017 to 3 April 2019. The office unit was added to the assessment and as a result, it's entry in the 2017 Rating List was increased to £515,000 RV effective from 3 April 2019.

3. The appeal property was a hybrid substantially developed in 2012 to include an industrial style building. The additional standalone purpose-built offices were constructed in 1987. The appellant, Company Shop, constructed the new building as a food sales outlet with associated storage and refurnished their existing offices. Its location on Wentworth Way in the Tankersley area of Barnsley is close to the M1 motorway and is a short commute from Sheffield and Barnsley. It is a mixed used locality with various industrial, office and retail premises in the vicinity.

4. The appellant's Challenge to the Valuation Officer (VO) was made on 28 February 2019. Mr Comer, on behalf of the appellant, proposed a revised RV of £440,000 based on valuing it under one scheme, as opposed to the current two schemes used by the VO, and allowing a 5% end allowance to reflect the sites hybrid nature, poor layout and split levels.

5. As part of the challenge discussions, the VO found it reasonable to apply a 5% reduction for fragmentation. The RV was reduced to £495,000.

6. An appeal to this Tribunal was made, following the VO's Decision Notice of 5 March 2021 not to uphold the appellants proposed RV.

7. 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.

8. 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.

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. In accordance with that Practice Statement, the hearing of this appeal was conducted remotely via Microsoft Teams conference call using audio/video-

link. For the avoidance of any doubt, I was satisfied that those present at the hearing were able to fully participate in the proceedings.

12. Mr Comer 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), his declaration included a statement that he was instructed under a partial conditional fee arrangement.

13. Within his written statement, Mr Comer 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.

14. 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).

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

16. 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 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

17. The issue was whether the appeal property's current assessment at £495,000 RV was reasonable.

Evidence and submissions

18. Within the written submission, Mr Comer had provided properties in which he considered supported a 5% allowance together with the VO's comments. A 5% allowance for fragmentation had been agreed during the challenge process and therefore this issue was no longer in dispute.

19. Mr Comer gave an overview of the reasons for the appeal and the issue which remains in dispute. He submitted that the whole of the appeal property should be valued from the industrial base rate as opposed to the VO retaining the historic approach and valuing the ancillary offices under a different scheme. He questioned why the internal office within the main unit was valued using the standard relativities but the offices in the separate building was valued as an office. It was a detached property ring fenced as one hereditament and he submitted that the lead use is an industrial property, and consequently, the value must be led by this. On this basis, he had also included the land within

his proposed valuation, adopting £2.75/m^2 in line with the assessment of AG Glass & Glazing Ltd.

20. He considered discussions regarding previous lists to be irrelevant and submitted that, in his opinion, the VO had failed to stand back and look. Mr Comer sought a revised assessment of £440,000 RV for the appeal property, based on valuing the whole site on the industrial scheme and adopting an unadjusted rate of £36/m^2.

21. Mr Wadsworth submitted that the appeal property had been valued using a hybrid approach (i.e., purpose-built offices valued as offices and the purpose-built warehouse valued as industrial). He stated that the stand-alone offices had always been valued on a scheme for offices on the Tankersley Estate (399338) and that this approach had been accepted by professional representatives in the 2005 and 2010 raring lists. Accordingly, he considered that the appeal property's assessment was reasonable and found no reason why it should be valued differently in the 2017 list.

22. He also stated that Mr Comer has accepted the hybrid nature of the property and had sought an allowance for this but then contradicts this opinion by wanting the whole site valued on the industrial valuation scheme.

23. Mr Wadsworth provided comparable properties which he considered supported the £36/m^2 for the industrial unit and £82.50/m^2 for the office unit and sought confirmation that the current RV of £495,000 was fair and reasonable.

Decision and reasons

24. In considering this appeal, I had regard to the term 'rateable value' is defined in paragraph 2(1), 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 –
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> a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
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> 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;
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> 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. The antecedent valuation date (AVD) for 2017 list rating appeals is 1 April 2015. As this appeal concerned a challenge to a correction of the list entry which increased the assessment, in accordance with Non-Domestic Rating (Material Day for List Alterations) Regulations 1992, the material day is 1 April 2017, this is the date I had regard to the physical factors relating to the appeal property and its locality and the effective date was limited to 3 April 2019.

26. In the case under consideration, the appellant considered that the whole property should be valued on one scheme (392531) rather than applying two schemes to reflect the separate office and warehouse units.

27. The original 1987 purpose-built office building was valued on the office valuation scheme (399338) at a base price of £82.50/m^2. The values within this scheme range from £82.50 to £105 /m^2. Mr Wadsworth submitted that the offices had always been valued in line with other offices on this scheme, a scheme which had been accepted between professional representatives in 2005 and 2010 rating lists. The food outlet is valued on scheme 392531 which is used for industrial properties in the locality. It has a base rate of £36/m^2, and Mr Wadsworth submitted that he does not consider this to be appropriate for offices. The value range within this scheme were £36 to £60 /m^2. Mr Wadsworth submitted that the relativities and their values which had been applied were the standard norm for office buildings and Industrial buildings.

28. Mr Wadswoth provided me with rental evidence and comparable assessments to support the £36/m^2 adopted for the industrial unit. Similarly, he had provided assessments in support of the price adopted for the office and premises. I do not find it necessary to list them all within this decision, as the tone/price per m^2 was not in dispute but rather that Mr Comer considered the unadjusted rate for the industrial unit should be applied to the whole site.

29. I had regard to the assessments for Haslam Transport Ltd, Fizwilliam House, Maple Road, Tankersley, Barnsley, S75 3DL which Mr Wadsworth submitted was a good comparable as it was mixed use. One building was valued as ‘Workshop and Premise’s and the other as ‘Office and Premises’. The office building had an adopted value of £87.13/m^2. The two buildings for Haslam Transport Ltd were separate hereditaments so I found that this differed to the circumstances presented for the appeal property.

30. Mr Wadsworth confirmed that he had not internally inspected the appeal property. I was presented with some photographs which I considered to clarify the layout. Mr Comer explained that the external office had split levels and a shutter door and that the photograph was typical of what the whole office was like.

31. I found that the offices were an ancillary to the main building, it was one hereditament with the land ring fenced. I therefore found it would be reasonable to assume that a hypothetical tenant fresh to a scene would negotiate rent for the whole premises.

32. I attached little weight to Mr Wadsworth contention that this approach should not be altered given it had been agreed by professional representatives for the 2005 and 2010 list, as I was only concerned with the 2017 rating list. Furthermore, in 2012, the appeal property was substantially developed to include an industrial style building. Company Shop constructed the new building as a food sales outlet with associated storage and refurbished the existing offices. I considered that this supported Mr Comer's view that the appeal property's use was now industrial with ancillary offices and would therefore be marketed as such.

33. Its lead use was industrial, and I failed to see why the external office was rated under a different scheme and valued at £82.50/m^2 but the other office on site, of similar condition, was valued up from the industrial unadjusted rate of £36/m^2 meaning the price adopted was £43.20/m^2. I was persuaded by Mr Comer valuation in which the final stage was to stand back and look. As Mr Comer's valuation was based on an industrial for the whole site, he had included land. No arguments were brought before me in respect of the price adopted and I noted that this price had been considered in line with AG Glass & Glazing Ltd assessment, which had been provided by Mr Wadsworth as a comparable property.

34. In conclusion, I found that the whole site should be valued on the industrial valuation with an unadjusted rate of £36/m^2. I considered Mr Comer's proposed valuation of £440,872 (rounded down to £440,000) RV to be reasonable.

35. The appeal was therefore allowed.

Order

36. Under the provisions of regulations 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 reduce the entries in the rating list to show the following:

    Company Shop Ltd, Wentworth Way, Barnsley S75 3DH
    Rateable Value £440,000 effective from 3 April 2019

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

38. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 5 November 2021
Appeal number: CHG100172182