THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; warehouse, wharf and premises; length of wharf, amount of storage land and end allowance in dispute; appeals allowed in part.

RE: 4 & 6 Sheds, 3 Quay, King George Dock, Hull, HU9 5PR
6 Sheds, 3 Quay, King George Dock, Hull, HU9 5PR

APPEAL NUMBERS: CHG100638250, CHG100638276 and CHG100638295

BETWEEN	Thor Shipping & Transport UK Limited	Appellant
	and	
	Ms A Hitchings Valuation Officer	Respondent

PANEL: Mr M Smith (Senior Member)
Prof I Solanke (Member)

CLERK: Mrs L Horne

REMOTE HEARING: Tuesday 30 January 2024

APPEARANCES: Mr P Gleeson from Business Rates Ltd, representing the appellant
Mr A Gausden representing the Valuation Officer

Summary of decision

1 Appeals allowed in part. The panel confirmed the Valuation Officer's revised rateable values (RV) as follows:

CHG100638250: 4 & 6 Sheds, 3 Quay, King George Dock, Hull HU9 5PR
£465,000 RV with effect from 1 April 2017

CHG100638276: 4 & 6 Sheds, 3 Quay, King George Dock, Hull HU9 5PR
£380,000 RV with effect from 1 April 2018

CHG100638295: Shed 6, 3 Quay, King George Dock, Hull HU9 5PR

£525,000 with RV effect from 1 January 2019

Introduction

2 This decision combines three 2017 rating list appeals. The challenge proposals were submitted by Business Rates Ltd on behalf of Thor Shipping & Transport UK Limited, and were received by the Valuation Officer on 3 March 2021. They had been made on the grounds that the RVs shown in the rating list on 1 April 2017, 1 April 2018 and 1 January 2019 were inaccurate. The appellant's representative sought a reduction in the length of the wharf and the area of the land included for all three assessments, and a 10% end allowance for layout/shape with effect from 1 April 2018 and 1 January 2019.

3 The Valuation Officer issued challenge case decision notices on 22 August 2022 which disagreed with the proposed alterations, and stated that the rating list entries were unreasonable based on the evidence and information available. The Valuation Officer concluded that the area of land should be increased, and the assessments were revised as follows:

CHG100638250: 4 & 6 Sheds, 3 Quay, increased from £472,500 RV to £485,000 RV with effect from 1 April 2017.

CHG100638276: 4 & 6 Sheds, 3 Quay, increased from £380,000 RV to £400,000 RV with effect from 1 April 2018.

CHG100638295: Shed 6, 3 Quay, increased from £560,000 RV to £570,000 with effect from 1 January 2019.

4 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeals to this Tribunal have been made on the grounds that the valuations for the hereditaments are not reasonable. The appeals were registered by the Tribunal on 8 December 2022.

5 The assessment of the appeal property effective from 1 April 2017 (CHG100638250) reflected two separate warehouses built in 1998 and refurbished in 2011. Shed 4 was located at the eastern end of 3 Quay; Shed 6 was located at the western end and comprised warehousing with ancillary office and staff facilities. There was also a gatehouse, storage land and quay. An end allowance of 10% for poor layout had been applied.

6 The assessment effective from 1 April 2018 (CHG100638276) reflected the removal of Shed 4 and portacabins, and also removed the end allowance of 10% for poor layout.

7 The assessment effective from 1 January 2019 (CHG100638295) reflected the addition of land previously occupied by shed 4.

8 Mr Gleeson 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 statement of truth included a statement that he was not instructed under any conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

9 Mr Gleeson was unable to join the Teams meeting on camera, but was able to participate in the hearing fully by audio only.

10 This Tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issues

11 The issues in dispute were the length of the wharf and the area of the land to be included in the subject assessments at 1 April 2017, 1 April 2018 and 1 January 2019, and whether a 10% end allowance for layout/shape should be applied with effect from 1 April 2018 and 1 January 2019.

Evidence and submissions

12 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge, Valuation Officer's challenge case decision notice, and appellant's challenge submission.

13 On behalf of the appellant, Mr Gleeson submitted that the length of the wharf should be reduced from 199m to 150m with effect from 1 April 2017 and 1 April 2018. A reduction from 400m to 300m was proposed with effect from 1 January 2019.

14 With reference to comparable properties, Mr Gleeson proposed a reduction of the land area for all three assessments to incorporate roadways for health and safety purposes. His final contention was a 10% end allowance for layout/shape, with effect from 1 April 2018 and 1 January 2019.

15 After adopting the Valuation Officer's areas, Mr Gleeson proposed the following revised valuations:

- £425,000 RV with effect from 1 April 2017
- £300,000 RV with effect from 1 April 2018
- £395,000 RV with effect from 1 January 2019

16 On behalf of the Valuation Officer, Mr Gausden proposed revised valuations based upon 10,275.92 m^2 of hard surfaced fenced land, and an alteration from £500 per m^2 to £400 per m^2 for mooring:

- £465,000 with effect from 1 April 2017

- £380,000 with effect from 1 April 2018
- £525,000 with effect from 1 January 2019

17 He disputed Mr Gleeson's contention for a reduction in the length of the wharf with reference to satellite photographs and comments made on the appellant's website. Mr Gausden contended that the reduction in land area for circulation was not accepted practice for this type of hereditament and he drew a distinction with the comparable properties relied upon by Mr Gleeson.

18 Mr Gausden submitted that a 10% end allowance for poor layout was not warranted once shed 4 had been removed.

Decision and reasons

19 When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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 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).

21 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 appeals, the material days are 1 April 2017 (CHG100638250), 1 April 2018 (CHG100638276) and 1 January 2019 (CHG100638295).

Length of the wharf as at 1 April 2017 and 1 April 2018

22 Mr Gleeson submitted that the length of the wharf was excessive and should be reduced due to:
- insufficient demand;
- insufficient land area to serve the amount of wharfage;

- access and usage of wharfage was not useable by shipping.

23 In support, he referred to an email from the Harbour Master dated 12 March 2020 which stated that the maximum advertised length for a vessel would be 199.9m. Mr Gleeson contended for a revised wharf length of 150m as it would not be possible to discharge two 100m long vessels.

24 In support of the present adopted length of 199m, Mr Gausden referred to satellite imagery of the site, which, he submitted, showed that vessels were able to routinely berth at various points along the length of the quay. It was also highlighted in an online article dated 9 January 2019 on the port's website that "Since July 2014, Thor has trebled its tonnage through the two berth terminal on King George Dock."

25 In consideration of the evidence presented by the Valuation Officer, the panel was not persuaded that there was either insufficient demand, insufficient land area or unusable access and usage to support Mr Gleeson's contention that at 199m, the length of the wharf was excessive.

Length of the wharf as at 1 January 2019

26 Following the removal of shed 4, the Valuation Officer had increased the length of the wharf to 400m. Mr Gleeson proposed a reduction to 300m, based upon the evidence and arguments outlined above.

27 In arriving at the decision that 400m was not excessive, the panel relied upon an extract from the appellant's website, highlighted by Mr Gausden, which stated that the terminal has "400m berth for multi vessel operation."

Land area reduction as at 1 April 2017, 1 April 2018 and 1 January 2019

28 Mr Gleeson cited two comparable properties for which a reduction in the area of land for circulation had been agreed with Mr Gausden: 4-7 Sheds, Boothferry Terminal, Bridge Street, Goole, East Yorkshire DN14 5SS and 24/25 & 26 Sheds, Aldam Dock, Goole Docks, Goole, East Yorkshire DN14 5QN. Based upon those agreements, Mr Gleeson contended that the area of land should be reduced by one third, from 10,275.92 m^2 to 6,849.93 m^2.

29 Mr Gausden disagreed with the notional reduction of land area to reflect circulation around the storage land. He submitted that this was not generally accepted practice as it was unlikely that the hypothetical landlord would agree to the omission of areas used for circulation. In response to the comparable properties cited by Mr Gleeson, Mr Gausden stated that Goole was a unique dock located in the town centre, with no dock estate and no area to drop cargo off. In contrast, the subject site was a dock estate with the facility to drop cargo anywhere. He provided two comparable properties which had no reduction in land for circulation: Solent Stevedores and Pentalver at London Gateway Container Terminal, London Gateway Drive, London Gateway, Stanford-le-Hope, Essex SS17 9DY.

30 The panel was not persuaded that a reduction in the area of land applied to the properties in Goole supported the same reduction for the subject site. As highlighted by the Valuation Officer, Goole Dock was different in location and character to the subject site. It was also significant that this was not a usual reduction for this type of property, as demonstrated by the comparable properties at London Gateway.

10% end allowance for layout/shape with effect from 1 April 2018 and 1 January 2019

31 Mr Gleeson submitted that the subject site was irregular in shape, and with reference to an end allowance applied to 46 Shed, South Side, Goole Docks, he proposed the same allowance for the subject assessments as at 1 April 2018 and 1 January 2019. He referred to the fact that there had been a 10% end allowance applied to the assessment effective from 1 April 2017, but this had been removed in the later valuations.

32 In response, Mr Gausden explained that the 10% end allowance for layout had been applied as the two main buildings had been 300 metres apart. Following the removal of shed 4, he contended that there was no justification for the end allowance, and so it had been removed from the later assessments. He disagreed that the subject site was irregular in shape, and disputed that the comparable property cited by Mr Gleeson had an end allowance for shape.

33 With reference to the layout plans, the panel did not observe that the layout of the subject site was particularly irregular. The panel understood why there had originally been a 10% end allowance to reflect the distance between the two main buildings, however, once one of the buildings had been removed, it was therefore no longer relevant to apply the allowance.

34 In conclusion, the panel was not persuaded by the arguments and evidence put forward by Mr Gleeson in respect of his three contentions. However, the appeals were allowed in part to the extent of the reduction in RVs proposed by the Valuation Officer.

Order

35 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 alter the entries in the rating list as follows:

4 & 6 Sheds, 3 Quay, King George Dock, Hull HU9 5PR
£465,000 RV with effect from 1 April 2017

4 & 6 Sheds, 3 Quay, King George Dock, Hull HU9 5PR
£380,000 RV with effect from 1 April 2018

Shed 6, 3 Quay, King George Dock, Hull HU9 5PR
£525,000 with RV effect from 1 January 2019

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

37 A refund of the paid fees will now be arranged provided there are no reviews of the Tribunal's decision. The refunds will take around six weeks to process.

Date: 26 February 2024

Appeal Numbers: CHG100638250, CHG100638276 and CHG100638295

Right of appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.