THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal – reduction given by Valuation Officer in Challenge Decision to reflect position - location of Advertising board – where in scheme should board be placed – rental evidence – appeal allowed

Re: M1 2WR – Maiden No 1737

APPEAL NUMBER: CHG100679426

BETWEEN:	Primesight	Appellant
	And	
	The Valuation Officer	Respondent
PANEL:	Mr K Everett (Senior member)	
	Mr T Rakhim	
CLERK:	Mr A Jolly	
REMOTE HEARING:	Monday 14 February 2022	
APPEARANCES:	Mr M O'Donoghue of Colliers representing Primesight (appellant)	
	Mr D Turner representing the Valuation Officer (respondent)	

Summary of decision

1. Appeal allowed. Rateable Value (RV) determined at £425 with effect 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: .The Valuation Officer issued his Challenge Decision Notice on 29 July 2021 amending the RV from £1,425 to £1,325 with effect from 1 April 2017. An appeal to the Valuation Tribunal was lodged on 9 September 2021 seeking a reduction to £425 with effect 1 April 2017.

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

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

7. Mr O'Donoghue 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 O'Donoghue's declaration of truth included a statement that he was not instructed under any conditional fee arrangement. Mr O'Donoghue 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.

Issues

8. The issue before the panel concerned the RV to be adopted having regards to the Guide for the location and position of the advertising right.

9. The advertising right was located in a low value industrial area on the fringe of Manchester City Centre. It was positioned low down on the road and had restricted visibility. The property had originally been entered into the 2017 Rating List at £1,425 but following representation during the check and challenge stage a 10% end allowance was awarded for the reduced visibility reducing the RV to £1,325 with effect from 1 April 2017. The material date and effective in this case were both 1 April 2017.

Evidence and submissions

10. Mr O'Donoghue provided a background to his involvement with advertising rights and that he was part of a group to discuss a guide on how to value this type of property. He stated that the current guide for the 2017 Rating List had not been signed off nor tested. In the past advertising rights had been valued based on rents but from 2010 list a guide was established to ease valuing such a bulk class.

11. Mr O'Donoghue stated that he still considered that the rent of the property played an important part in valuing the hereditament and was not entirely satisfied that a scheme works for all. He stated that there were five advertising rights in the immediate locality of the appeal hereditament which he considered were incorrectly assessed but had taken only the one through the check, challenge and appeal process due to the costs involved.

12. He considered that the Valuation Officer had not had regards to the location and position of the appeal hereditament or the rent passing. He stated that the Valuation Officer had considered the location to be on a primary or main route and the position to be non-concealed commercial position with reasonable dwell time and therefore had placed the property into location 2 position B (secondary) at £1,400 RV but had given an allowance due to it being sited low down and obscured from the road. He considered this was incorrect and believed the location was in a quieter, non-urban area and the position was tertiary with poor

impact, elevated with short range display and main residential and therefore should have been placed in location 4 and position and valued at £400 per m².

13. Mr O'Donoghue stated that he was happy to concede that an amount should be given for the Plant and Machinery and in his opinion this should be £47.

14. He accepted that the appeal property had been valued higher in the 2010 than the RV he was now seeking but explained that rents just after the AVD for the 2010 list had been rejected due to the movement of the market at that time and it could not have been successfully argued. It was therefore not worth it financially to appeal the assessments in the 2010 list. He considered that at the AVD for the 2017 Rating List the rents supported the lower values being applied.

15. Mr O'Donoghue accepted that the appeal hereditament was located close to the town centre and ring road but the location was a rat run with mixed properties and was run down with many vacant premises.

16. Mr O'Donoghue sought the reduction in RV from £1,325 to £425 with effect 1 April 2017.

17. Mr Turner stated that the Valuation Officer had valued the plant and machinery at £87 but was happy to agree to £47 as suggested by Mr O'Donoghue.

18. Mr Turner explained the guide to valuing with tiers for location from 1 being the best to 4 being the worst and then bands for position of the site ranging from A being the best position to C being the worst. He stated that Mr O'Donoghue had valued the appeal hereditament at the lowest of the low. He stated that he did not accept that the location of the property should be in tier 4. He stated that the property was located by the ring road around the city centre and that a 10% allowance had been given due to being position low to the road.

19. Mr Turner stated that the appeal hereditament had been valued similarly in the 2010 Rating List when the rent passing was £500/£600. He stated that the guide states rents below the lower level in a permitted range should be ignored. The rents in the 2010 Rating List had been ignored and therefore the rents in the 2017 Rating List should also be ignored in line with the guide.

20. He requested the panel to determine a revised RV of £1,300 with effect 1 April 2017.

Decision and reasons

21. The panel noted the Valuation Officer's comments in relation to the fact that the appeal hereditament had been valued in the same manner as it had been in the 2010 Rating List. Each list is a new list and new factors and issues may occur between lists. In this instance the panel is looking at the appeal hereditament at the material day which was 1 April 2017 and not an earlier date. The panel therefore have to consider the locality at that date.

22. The panel noted that whilst the appeal hereditament was located close to the ring road around the city centre it did not necessarily mean that it was on a main or prominent route. Having regards to the photograph and maps the panel had been persuaded by the appellant's representative that the location of the appeal property was more akin to a quieter route or a non-urban location. The panel therefore considered that the appeal hereditament should be placed within Tier 4 in relation to its location.

23. The panel then considered the position of the advertising right. As an advertising right the position is important in order to advertise so if the position is poor a lower value should normally apply. From the photograph of the property it was positioned on the end of a building on a junction at a low level and was obscured by a car. The panel considered the fact that the Valuation Officer had awarded a 10% end allowance due to it being obscured indicated some acceptance that the position was poor. In considering its position the panel did not accept that it was a secondary position as the advertising right had a poor impact and a short range display. The panel therefore was persuaded by the appellant's representative that the position was tertiary and therefore band C should apply. In placing the property into band C the panel considered that the 10% allowance would be reflected in the banding and therefore was not required to be awarded.

24. The panel considered that placing the property into Tier 4 Band C, and having regards to the plant and machinery, the RV of £425 was in line with the rent passing on the hereditament.

25. The panel having considered all the evidence presented allowed the appeal and determine that RV £425 was correct.

Order

26. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £425 with effect from 1 April 2017 within two weeks of the date of this order.

27. The ratepayer is also entitled to a refund in full of the fee paid in accordance with regulation 13E (1)(a) of the Non Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009. The refund will take six weeks to process.

Date: Wednesday 2 March 2022

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