THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeals; 2017 rating list; workshops and premises; material change of circumstances; end allowance sought; appeals allowed in part.

RE: Seetru Ltd, Albion Dockside Estate, Bristol BS1 6UT

APPEAL NUMBER: CHG100699513

RE: Aardman Animations Ltd, Gas Ferry Road, Bristol BS1 6UN

APPEAL NUMBER: CHG100699681

BETWEEN: Seetru Ltd and Aardman Animations Ltd — Appellants

and

Lucy Formela-Osbourne (Valuation Officer) — Respondent

PANEL: Mr S Levy (Presiding Senior Member)
Miss K Marsden (Senior Member)

CLERK: Ms R Muller

HEARING: Remote Hearing No. 2: on 29 January 2024

APPEARANCES: Mr Andrew Wellens from Avison Young (UK) Ltd, representative for the Appellants
Mr Louis Berrow, representative for the Respondent

Summary of decision

1. Appeals allowed in part. The panel held that an allowance should be awarded at 5% for the disruption and inconvenience which had been caused by the closure of Cumberland Road on 24 January 2020 to the assessments of the subject hereditaments.

Introduction

2. The appeals arose following proposals received by the Valuation Officer (VO) on 10 February 2020, which cited a material change in circumstances (MCC) and sought reduced entries with an effective date of 24 January 2020. The MCC was a landslip which resulted in the closure of Cumberland Road, which had caused issues accessing the subject hereditaments.

3. Mr Wellens appeared on behalf of the appellants 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 Wellens explained that he was not instructed on a contingency fee basis, and he declared that he understood and accepted his duty to the Tribunal in giving his evidence. He would comply with this as well as the requirements of his professional body, regardless of whether the evidence supported the client's case.

4. Mr Berrow who appeared on behalf of the Valuation Office Agency also stated he was acting in a dual role capacity, as expert witness and advocate.

5. The subject hereditaments were described in the 2017 Rating List as workshop and premises. They are located on Spike Island, which is made up of a mixture of industrial, residential and leisure properties.

6. At the request of the parties, both appeals were heard together.

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

Issue

8. Whether an allowance was applicable to reflect the closure of the main road to the subject hereditaments.

Evidence and submissions

9. The evidence bundle submitted to the Tribunal comprised all of the documents exchanged between the parties as part of the challenge process, the Valuation Officer's (VO's) decision notice and the Appellant's challenge submission.

10. Mr Wellens proposed that an allowance of 10% be awarded to the assessments to reflect the closure of Cumberland Road on 24 January 2020 due to a landslip. He stated that there were other roads to the subject hereditaments, however, these other routes were extensive and would take a much longer time. The routes were considered to be either 2.6 miles or 4.5 miles due to the closure of Cumberland Road.

11. Mr Berrow stated that there was no dispute that the length of works that had to be carried out due to the landslip had taken circa 2.5 years. However, he did dispute the fact that the closure of Cumberland Road had caused an issue that would warrant an allowance to the subject hereditaments' assessments.

Decisions and reasons

12. The subject hereditaments must be valued for the purpose of non-domestic rating on the basis of the rents at which they might reasonably be expected to let from year to year on a number of assumptions. The date of the hypothetical rent was 1 April 2015.

13. The material date for the purposes of this appeal was 10 February 2020, which both parties confirmed was the date when the MCC had been submitted, it being the same date when the MCC had been acknowledged.

14. Mr Wellens stated that the subject hereditaments are located on Hanover Place, off Cumberland Road, which is circa one mile west of Bristol city centre, in an island location with the floating harbour to the north and the River Avon to the south. Access to the subject hereditaments was along Cumberland Road.

15. The panel noted that part of the river wall on Spike Island by Cumberland Road had collapsed, which had resulted in a landslip. Cumberland Road had therefore, been closed fully for repairs from 24 January 2020 for a period of circa three months, and then partially open until all repairs had taken place, which had not been until later in August 2023.

16. Mr Wellens stated that due to the heavy machinery that had been used during the repair works, this had resulted in extra cleaning costs. He also stated that Aardman Animations Ltd had another site, which was circa one mile from Cumberland Road, however, due to the closure of Cumberland Road, it took longer for workers to travel from one site to the other, resulting in extra costs.

17. Mr Wellens informed the panel that the closure of Cumberland Road had significantly affected the enjoyment of the subject hereditaments with access from the A4 Cumberland Basin severely restricted with lengthy detours required. The detours would be either along the A370 Coronation Road to Bedminster Bridge or along Anchor Road and through the city centre. The panel was also informed that pedestrians and cyclists would also not have been able to use Cumberland Road during the full closure for a period of circa three months.

18. However, Mr Berrow argued that there were several other hereditaments located on Spike Island which had not submitted any MCC challenges. Therefore, he was of the opinion that the other properties had not found the closure of Cumberland Road to be an issue. The panel noted that most of the other properties on Spike Island fell below the threshold for small business rate relief and therefore, would not benefit from a reduction in their assessments.

19. In making its decision, the panel was made aware that there had been other work in other areas of Bristol, where the properties located in north Bristol had been subject to MCC's due to bus works and allowances had been conceded in the 2010 Rating List. In particular, the panel noted that for the Temple Key office development, an allowance for building works and road works had been agreed at 7.5% on a number of properties. Although these properties were not comparable to the subject hereditaments, allowances were granted due to the works that impacted properties at that time.

20. Mr Berrow stated that the impact of the Temple Key office development was greater, due to the access from the motorway, whereas the access to the subject hereditaments was not as severe and could be accessed by foot or bike, as well as by car once Cumberland Road had partially been reopened. Mr Berrow also stated that the hypothetical landlord may have considered that the total closure of Cumberland Road, which was for a period of circa three months, was a minor disruption. Once Cumberland Road had partially opened, the disruption would not have been as severe and Cumberland Road had been partially opened for the majority of the time during the repairs.

21. The panel noted that there had also been works at Temple Gate where an allowance had been granted of 5% for offices that were located along the road of the main works. The panel was informed that it had been considered that the 5% would have fairly reflected the traffic and pedestrian issues associated with the roadworks and especially driving around Bristol Temple Meads Railway Station.

22. The panel considered that the closure of Cumberland Road, which albeit had only been for a circa of three months, would affect pedestrians and traffic alike. As this period had only been for a short time and the panel had to consider the MCC as of the material date of 10 February 2020, the panel held that it did not consider it warranted an allowance of 10%, as Cumberland Road would have been partially reopened soon after. However, it did consider that there had been an effect on the subject hereditaments' enjoyments of the properties. Therefore, due to the disruption and inconvenience of the closure of Cumberland Road, the panel held that an allowance of 5% should be applied to the subject properties assessments from 20 January 2020, as both parties had been in agreement that Cumberland Road had reopened fully at the latter end of August 2023.

23. Therefore, the appeals were allowed in part and the assessments confirmed from 20 January 2020 as follows:

    (i). Seetru Ltd, Albion Dockside Estate, Bristol BS1 6UT, at £108,300 rounded down to £108,000 RV
    (ii). Aardman Animations Ltd, Gas Ferry Road, Bristol BS1 6UN, at £401,375, rounded down to £400,000 RV.

Order

24. As a consequence of the above decision, the VO is ordered to revise the assessment of both Seetru Ltd, Albion Dockside Estate, Bristol BS1 6UT and Aardman Animations Ltd, Gas Ferry Road, Bristol BS1 6UN, as shown above within two weeks of the date of this order with the effective date from 20 January 2020.

25. The appellants are 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).

Date: 13 February 2024 (re-issued 14 February 2024)

Appeal numbers: CHG100699513 and CHG100699681

Amended decision in accordance with Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 due to a clerical error. Paragraph 15 is amended to substitute “2022” for “2023”. Paragraph 22 is amended to remove “to 31 August 2022” and substitute “2022” for “2023”. Paragraph 23 is amended to remove “to 31 August 2022” and paragraph 24 is amended to remove “to 31 August 2022”.

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.