THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Mode and category of use; Comparable properties; Unadjusted base rate; Appeal dismissed.

RE: Garstang Tyre Services, Unit C, 119 Garstang Road, Preston PR3 0PH

APPEAL NUMBER: CHG100713094

BETWEEN: Clarke & Pulman Ltd (represented by Ken Batty Chartered Surveyors) — Appellant

and

Amanda Hitchings (Valuation Officer) — Respondent

PANEL: Mrs J Ellis (Presiding Senior Member)
Mr W J Read (Senior Member)

CLERK: Ms S Hodgson

ON: 23 November 2022

REMOTE HEARING

APPEARANCES: Mr K Batty of Ken Batty Chartered Surveyors for the appellant
Mrs R Fahy of the Valuation Office Agency for the respondent

Summary of decision

1. Appeal dismissed. The existing valuation was not found to be excessive and the entry in the rating list was confirmed at £23,250 rateable value (RV) with effect from 22 April 2022.

Introduction

2. This is a 2017 rating list appeal. Garstang Tyre Services, Unit C, 119 Garstang Road, Preston PR3 0PH (the ‘appeal property’) had been entered in the 2017 rating list as Workshop and Premises at a RV of £15,250 with effect from 9 November 2018.

3. The challenge proposal was submitted by Ken Batty Chartered Surveyors on behalf of the appellant and was received by the Valuation Officer (VO) on 2 March 2021. It sought a reduction in RV from £15,250 to £14,000 with effect from 9 November 2018.

4. Following the challenge proposal, the VO amended the mode and category of the subject property to Exhaust and Tyre Centres and valued it with an unadjusted base rate of £55psm which resulted in a RV of £23,250. Legislation prevented the VO from backdating this amendment and therefore the effective date for this was 22 April 2022.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received on 23 May 2022.

6. The appeal property comprised the end unit of three units, all of which were under the same ownership. The units were individually assessed due to the diverse natures they were used for. The appeal property was now in the list as an exhaust and tyre centre and was used for that purpose.

7. At the request of the parties, the panel varied the procedure outlined in the Consolidated Practice Statement PS8 - Model Procedure and invited the respondent's representative to present her evidence first.

8. This tribunal decision document is not and does not purport to be a verbatim record of proceedings. Consequently, the absence of a reference to any statement or item of evidence should not be construed as it having been overlooked.

Issue

9. The issue for the panel to consider was the correct RV to be ascribed to the assessment.

Evidence and submissions

10. Mrs Fahy argued that this property was clearly an exhaust and tyre centre and should be valued as such. The property had initially been entered into the 2017 list in November 2018 following a split of the property and a part refurbishment. At the time the property was inspected however it had been incorrectly identified as a workshop and premises. This error was corrected following the challenge submission. Mrs Fahy had provided comparable evidence of other tyre and exhaust centres in the area and asked for the appeal to be dismissed and the RV of £23,250 to be confirmed.

11. Mr Batty suggested that the property was being valued based upon the use made of it by the occupier and not vacant and to let. He contended that this unit was the same as the other two units and that the attached middle unit was in the list as a workshop and premises. It was his argument that there was no difference between the two units. Mr Batty stated there was a rent of £12,000 per annum on the unit. In addition to reducing the base rate, Mr Batty sought a 5%

end allowance for access issues, and a 2.5% end allowance for height restrictions. He sought an overall reduction in RV to £14,000 with the mode and category as workshop and premises.

12. Mr Batty 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 Batty declared that he was not instructed under any conditional fee arrangement. Mr Batty 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 his client's case.

Decision and reasons

13. The Valuation Tribunal is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) 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—
>
> (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 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.

14. 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 AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

15. 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 appeal, the material day is 9 November 2018.

16. The panel first considered the arguments submitted for the end allowances at the subject property. Mr Batty had requested a 5% end allowance due to the property having a one-way access system to it and a 2.5% end allowance for height restrictions. Mrs Fahy stated that in addition to the two entrances at the front (with the one-way system being imposed voluntarily)

there was a rear access from Brockhalls Way. Mr Batty stated that the rear entrance had a restricted height, however it was the panels opinion that there was not sufficient evidence to persuade it that a 7.5% total end allowance was warranted when there were three entrances, two of which had no height restriction and the one-way system had been self-imposed.

17. In relation to the mode and category of use, Mr Batty argued that the attached middle unit was valued as a workshop and premises and that the subject property was the same. He contended that it had only been changed to a tyre and exhaust centre due to the occupation.

18. The panel considered his argument, however it noted that the change of mode and category had not been done following a change in occupier, but once a challenge had been submitted and the VOA had been made aware of the error. The property was newly in the rating list from 9 November 2018.

19. The panel reviewed the images of the subject property and noted a particular image that showed all three units. It was clear to the panel that the subject property was different to the others based on its frontage. The subject property had roller door frontages whereas the other two units did not. From the internal photographs the panel could see the compressor and pipework that Mrs Fahy had highlighted as being used in tyre and exhaust centres.

20. It was the panel’s opinion, from the evidence before it, that the subject property was a tyre and exhaust centre. While it may have been mis-categorised when it first entered the rating list in 2018, the VO has a duty to maintain an accurate list and correct errors when they are identified. The subject property should be valued in the same scheme as other tyre and exhaust centres; however, the panel is aware that the increase in RV will only take effect from the date the rating list was amended which was 22 April 2022.

21. The panel noted that there was a rent of £12,000 per annum on the subject property. However, it was listed on the form of return that this was a connected rent between parties and therefore not an open market rent. The panel placed less weight on this rent for that reason.

22. The panel then considered the rental evidence put forward by Mrs Fahy and noted that Hi Q was a new letting in 2012 and the rent was analysed to £55.82psm. Hi Q was smaller than the subject property and was in the rating list with an unadjusted base rate of £60psm.

23. The panel also reviewed the tone evidence which had values between £35psm and £85psm with one outlier at £20psm. The evidence bundle stated that the higher valued properties were on dual carriageway and city centre locations, and the lower valuations were in industrial estates. Neither of these descriptions applied to the subject property.

24. Finally, the panel considered the contention that the subject property was not like Hi Q or other tyre and exhaust centres as it serviced agricultural vehicles. The panel accepted that it was located in a semi-rural area, however there was no evidence to support this claim by way of photographs which demonstrated that it was open to members of the public for car servicing.

25. The panel was not persuaded that the RV for the subject property as a tyre and exhaust centre was excessive. The best evidence was the rent of Hi Q that devalued to £55psm and supported a valuation of that amount for the subject property.

26. Consequently, based on the evidence before it, the panel dismissed the appeal and the RV of £23,250 was confirmed with effect from 22 April 2022.

Date: 22 December 2022

Appeal number: CHG100713094

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.