THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Showroom and Premises; End allowances for fragmentation/split site and mixed ages; Appeal dismissed.

RE: Ceramic House, Chorley Old Road, Bolton BL1 4JL

APPEAL NUMBER: CHG100752163

BETWEEN:	Tile Mart Ltd	Appellant
	and	
	Ms A Hitchings	Respondent
	(Valuation Officer)	

PANEL: Ms C Caiquo (Senior Member) and Professor P Catterall

CLERK: Mrs S Morgan

REMOTE HEARING: Monday 11 December 2023

PARTIES PRESENT: Mr G Fowke – Appellant's representative (Altus Group)

Mr A Macrury – Valuation Officer's representative

Summary of decision

1. The appeal was dismissed. The panel confirmed the appeal property had been correctly valued as a showroom and premises at £103,000 Rateable Value (RV) with effect from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO). After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 3 January 2023 and his representatives then appealed the VO's decision to the Tribunal on 19 March 2023 on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. Mr Fowke appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Fowke's declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.

4. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).

5. The hearing was held remotely via Microsoft Teams.

6. This document is not and does not purport to be a verbatim record of proceedings.

Issues

7. The issues in dispute were whether a 5% end allowance was justified for fragmentation/split site as well as a 5% end allowance for mixed age to reflect the disadvantages attached to the subject property.

8. The appellant's representative sought a revised RV of £93,000 whilst the VO's representative believed that the current RV of £103,000 was reasonable with effect from 1 April 2017.

Evidence and submissions

9. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties' comparable properties, a location plan, aerial photographs of the subject property and comparable properties together with their skeleton arguments.

10. The subject property was described as a showroom and premises which was inspected on 10 December 2010 and again on 7 December 2023, just prior to the hearing. The check case was completed on 18 February 2021 confirming there were no changes to the property's details.

11. The property was valued as two units. Unit 1 referred to the showroom which was built in 2007 and valued at £125.00/m^2 and Unit 2 which was the store built pre 1900s and valued at £16.09/m^2. The values applied reflected the age of each unit. There was car parking around the site for customers and staff.

Decision and reasons

12. In cases such as this the starting point for consideration would normally be the actual rent passing on the appeal property. However, in this case the property was freehold, and no other rental evidence was provided.

13. The appellant's representative contended that the subject property was disadvantaged due to a fragmented site whereby the showroom and stores were completely detached without any internal connection, resulting in a split site layout. The appellant's representative contended that the division affected the efficiency of the property having to go through the car park to get from one building to the other and as such subsequently effected the desirability of the site. He sought a 5% allowance for divided/split site to reflect this disability.

14. In addition, the appellant's representative was also of the opinion that the different ages of the two buildings should be reflected by a 5% end allowance. In his view, this would reflect the costs and issues associated with a pre-1900 building and its desirability.

15. With the aid of aerial photographs, the appellant's representative referred to his two comparable properties. Henry Alty Ltd in Liverpool New Road, Preston had a 5% end allowance included in its assessment for fragmentation/split site. The other property was Springvale Leather, Foundry Street, Rossendale, Lancashire where 5% end allowances were given for access, mixed ages and split site. Both of these comparable properties were showrooms, albeit in different valuation schemes to each other and the subject property.

16. The appellant's representative also referred to the decision for *Johnson v HB Foods* RA/46/2011, where the valuation officer had put forward her analysis of levels of typical allowances which are relevant on a national basis in the same way that there are national relativities. It was agreed that contiguous properties separated by internal dividing walls warranted an allowance between 2.5% and 5% depending on the severity.

17. Based on the comparable properties he had cited and the decision for *Johnson v HB Foods,* the appellant's representative believed that an end allowance of 5% for fragmentation/split site was justified. In addition, he believed that the hypothetical tenant coming fresh to the scene would also consider a 5% end allowance for mixed ages for the subject property. He sought a revised rateable value of £93,000 with effect from 1 April 2017.

18. The respondent confirmed that there were no other units within the subject property's valuation scheme 430368 that had allowances and that the scheme already included the inequalities relating to the subject property. The value applicable was for showrooms and similar properties in Bolton Metropolitan Borough, where the ground floor retail space was valued on an overall price per m^2. This did not include car showrooms.

19. In relation to the two comparable properties put forward by the appellant's representative, the Henry Alty Ltd premises in Preston was on a separate scheme, attached to the North West Builders Merchants scheme. It was made up of four separate units of different ages and was a more fragmented site than the subject property. This property was 25 miles away from the subject property.

20. Springvale Leather in Rossendale was approximately 12 miles away from the subject property. This property was part of a valuation scheme for retail units in Converted Buildings Preston scheme. The property had a 5% allowance for mixed ages and split site based on the fragmented workshop/warehouse, stone/slate pre 1900 detached two storey property, partly refurbished in 2005. Due to the location, the site characteristics and the different scheme references, the respondent did not consider these two comparable properties helpful in determining end allowances for split site and mixed ages for the subject property.

21. In relation to the subject property itself, the level of value for each building reflected its age and character and therefore there was no justification for any allowance for mixed age. In relation to the split site the occupier had occupied the whole site since 2007. There appeared to be no disadvantages to the site. The respondent considered that the current rateable value of £103,000 with effect from 1 April 2017 was reasonable. He sought a dismissal of the appeal.

22. The panel considered the comparable properties submitted by the appellant's representative, and concluded from that evidence that end allowances of this nature were specific to the individual circumstances of each property and should not be applied solely on the basis that a similar allowance had been conceded in the valuation of another property.

23. Having examined the evidence presented by the parties, the panel accepted that there was no interconnectivity between the two units which made up the subject property. However, it did not appear to disadvantage the site which the present occupiers had been in occupation of since 2007. It obviously suited the business to operate as two separate units. The panel was not persuaded that an allowance was justified for a split site.

24. The panel noted that in relation to the mixed age allowance both units were valued at different levels which would have reflected their age and therefore any further allowance for this disability could be seen as double counting.

25. The panel found that the two comparable properties referred to by the appellant's representative were too far away from the subject property, had different site characteristics and had been placed in different valuation schemes to be useful in determining similar allowances for the subject property. The panel was aware that it should not deviate from the Valuation Officer's scheme unless the evidence was convincing.

26. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the case before it, the panel concluded that he had failed to produce sufficient evidence to justify his claim for allowances for fragmentation/split site and mixed age. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated, and the appeal was dismissed.

Date: Thursday 4 January 2024

Appeal number: CHG100752163

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.