THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; Local Government Finance Act 1988; Completion; Valuation Scheme; Appeal dismissed.

RE: Unit E, Watermill Industrial Estate, Aspenden Road, Buntingford, Hertfordshire SG9 9JS

APPEAL NUMBER: CHG100781079

BETWEEN:	Dun-Bri Services Ltd	Appellant
	and	
	Ms Dawn Bunyan (Valuation Officer)	Respondent
BEFORE:	Mrs Amanda Adeola	(Chair and Senior Member)
	Mrs Fiona Duggan	(Senior Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 1:	10 July 2023	
PARTIES PRESENT:	Mr Michael Clayton of ALTUS Group	Appellant's representative
	Mr Amandeep Singh	Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £55,500 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of the following: the appellant was the non-domestic rates payer of the appeal property at Unit E, Watermill Industrial Estate, Aspenden Road, Buntingford, Hertfordshire SG9 9JS.

3. The appeal property was a warehouse and premises on the Watermill Industrial Estate and was constructed with a steel frame with profiled metal walls and roof with car parking to the front.

4. Through the Check, Challenge, Appeal (CCA) process the appellant's representative proposed that the appeal property, having been built in 2003 rather than 2004, should be valued within the valuation scheme 303345 for properties dating between 1994 to 2003. This would reduce the tone of the valuation from £60/m^2 to £50/m^2 giving an RV of £46,250.

5. The challenge was completed on 8 December 2022 and the valuation officer (VO) determined that the proposal was not well-founded. The appellant appealed to the Valuation Tribunal.

6. Mr Michael Clayton appeared on behalf of the appellant as expert witness and advocate. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), his declaration of truth included a statement that he was instructed on a contingency fee basis. He 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.

7. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

8. This is not intended to be an exhaustive record of the 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 RV of the appeal property.

Evidence and submissions

10. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, assessment summaries and the appellant's challenge submission.

11. The appellant's representative had submitted a "Completion handover document" dated 30 October 2003 from a structural engineer company as evidence of the appeal property's 2003 completion as well as an aerial image from google earth dated 16 October 2003.

Decision and reasons

12. The panel noted that the only dispute in this case was whether the appeal property was built in 2003 or 2004 and found the following to be useful in its decision making. The material date in this appeal was 1 April 2017.

13. The relevant billing authority had informed the VO that the effective date for the appeal property was 10 January 2004 and this became the date that it was first entered into the non-domestic rating list. The panel found that this was good evidence for the property being completed in 2004.

14. The VO had inspected the appeal property on 18 February 2004 and the effective date of 10 January 2004 was confirmed on site. The panel found that this was good evidence for the property being completed in 2004.

15. The aerial photograph of the appeal property only shows that the roof had been fitted, it did not demonstrate that the whole of the property was completed. The completion handover certificate appeared to state that the engineering company had completed the works that it was contracted to do. It was not a completion notice as required by the non-domestic rates legislation. The panel found that these items of evidence were not sufficient to show that the property was completed in 2003.

16. The panel also noted that the appellant's representative had not provided any evidence of the internal layout of the property, or of any internal fit-out or whether the occupiers had begun trading from the premises at that time or up until 10 January 2004.

17. The panel found that the appellant's representative had not provided sufficient evidence that the property was complete in 2003. The panel therefore confirmed the effective date as 10 January 2004 and dismissed the appeal.

18. The panel noted the appellant's representatives reference to the property Barleycroft works as comparable to the appeal property. However, the panel found that this was not useful as a comparable as it was over 6 miles away from the appeal property, in a much more rural setting and there were some questions over the rental evidence in respect of it being between connected parties. In any case, the panel found that it was not now relevant to the case as the appeal property was found to be in the correct scheme and one different to Barleycroft.

Date: 31 July 2023

Appeal number: CHG100781079

Rights of appeal

Any party who is aggrieved by the Tribunal's decision 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.