THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; land used for storage and premises; rate per m^2 to be adopted in the assessment; the appellant demonstrated that the assessment of the land subject to appeal was unreasonable; appeal allowed in part.

RE: Land Adjacent to Tiger Plant Ltd, Tiger Plant Yard, Swindon, SN3 4PD

APPEAL NUMBER: CHG100786722

BETWEEN	Tiger Plant Ltd	Appellant
	and	
	Ms L Formela-Osbourne (valuation officer)	Respondent

BEFORE: Mr A Backway (Senior Member)

CLERK: Mrs A Keohane

REMOTE HEARING 3: Wednesday 7 February 2024

APPEARANCES: SM of Tiger Plant Ltd, the appellant
Mr D Walker, on behalf of the valuation officer, as advocate and expert witness

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Summary of decision

1 Appeal allowed in part. The assessment of Land Adjacent to Tiger Plant Ltd, Tiger Plant Yard, Swindon, SN3 4PD was reduced to £10,250 rateable value (RV) with effect from 15 May 2019, based on a revised rate of £8.40/m^2.

Introduction

2 This is a 2017 rating list appeal. The land had been entered in the 2017 rating list as ‘Land Used for Storage and Premises’ at £13,750 RV, effective from 15 May 2019.

3 The challenge proposal was submitted to the valuation officer (VO) by SM on 18 March 2022. The VO issued a challenge case decision notice on 11 January 2023, which declined to amend the assessment in accordance with the proposal. An appeal was received by this Tribunal against the decision notice on 6 April 2023 on the grounds that the valuation for the hereditament was not reasonable.

4 The land is situated adjacent Tiger Plant Yard and accessible via Bridge End Road. It is within a largely commercial/industrial area northeast of Swindon City Centre. It originally

formed part of Tiger Plant Yard prior to being split into two assessments with effect from 15 May 2019.

5 Due to illness, the second member allocated to this hearing was unable to continue. However, paragraph 11 of the Tribunal's Business Arrangements allows me to sit alone in such circumstances to avoid postponing the hearing.

6 To assist the unrepresented appellant and with the agreement of the parties, I varied the Tribunal's model procedure as outlined in Practice Statement 8 and invited Mr Walker to present the VO's evidence first.

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

Preliminary Issue

8 Mr Walker wished to raise a preliminary issue. The assessment of land was the result of a split actioned following a check. The challenge received from the appellant queried the quality of the land and the price attached to it, and an alternative valuation had been submitted. The VO now considered that the assessment should not have been split as it had remained in one occupation, Mr Walker provided a valuation for a merged assessment, incorporating an access allowance. He indicated that the VO may alter the list to reflect this merger; however, any value determined for the land would be incorporated in that assessment.

9 From the challenge document I ascertained that the only issue raised and discussed was the state of the land and the price applicable to it. The appellant had not sought a merger and one had not been proposed by the VO prior to issuing the challenge decision notice. The challenge decision reaffirmed the VO's position that the level of value adopted for the land was reasonable. After consideration, I concluded that a merger of the assessment was outside of the scope of the appellant's proposal and went on to hear the appeal based on the appellant's challenge to the nature of the land and the rate applicable to it.

Issues

10 The assessment is based on an area of rough surfaced fenced land measuring 1,232m^2. Neither the size of the land, nor the date the assessment was split was in dispute. The dispute related to the designation of the land and the rate/m^2 applicable. The appellant's valuation of £8,870 RV was based on £7.20/m^2, the rate applied to the rough surfaced fenced land at Tiger Plant Yard. The current valuation of £13,750 RV was based on a rate of £11.20/m^2.

Evidence and submissions

11 The bundle of evidence submitted comprised the documents exchanged between the parties as part of the challenge process.

12 In his evidence and oral presentation, Mr Walker confirmed that the land subject to appeal was valued higher than the equivalent land at Tiger Plant Yard because the land at Tiger Plant Yard was substantially larger and the rate applied reflected quantum.

13 To show that the rates/m^2 applied to properties in the area were not unreasonable, Mr Walker provided rental evidence set in 2015 and 2016, together with assessment details, for a number of comparable properties within Swindon, no further than three miles distant. The rents had analysed to between £11.18/m^2 and £37.55/m^2, with the hard surfaced land valued on rates of between £13.00/m^2 and £15.50/m^2.

14 Reflective of the rental evidence, Mr Walker provided a schedule showing the base rates applicable to hard surfaced fenced land, which was considered to be the most valuable, and the price applied depended on size. Less valuable land of a similar size was assessed at a percentage of the rate adopted for the hard surfaced fenced land. In the subject, the rate for hard surfaced fenced land was £14/m^2, with rough surfaced fenced land being valued at 80% of this at £11.20/m^2. Mr Walker indicated that Google Images and StreetView, confirmed that the appeal land had been largely left empty and not maintained, nevertheless, it still had to be valued for rating purposes.

15 In his evidence and oral presentation, the appellant submitted that when Tiger Plant took over the lease of its current property, it did not include the adjacent land now subject to appeal. This land was not fit for purpose or usable; given it comprised soft, muddy, waterlogged ground that flooded in winter due to the lack of drainage. The land had previously been a fuel and oil depot with large underground storage tanks and when these had been removed, the ground had been filled with soil and sand with some stones placed on top in places.

16 Given the landlord was unable to let the appeal land due to its condition and access, Tiger Plant had been allowed to use it free of charge. A small section was utilised as a place to keep broken and worn excavator tracks and tyres and in summer, if its condition allowed, parking was possible. The appellant found later that this area was rated and the price/m^2 was in excess of that applied to both the hard surfaced and rough surfaced fenced land at Tiger Plant Yard that had the benefit of drainage, electricity, and water.

17 With regard to the properties submitted by the VO, the appellant argued they were not comparable as they were outside of the immediate area and of a different surface, with drainage, and could be used all year round. He sought evidence of comparable soft land values in the vicinity that also lacked common mains foul and storm drainage, and none had been available. The appellant argued it was not consistent to have soft land only suitable for off road vehicles a few months a year rated higher than hard surfaced land.

18 In September 2021 the landlord took back the appeal land, fenced it off, and commenced work to install large drainage channels to allow disbursement of the water, which would render the land in a condition that was capable of being let.

Decision and reasons

19 The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (AVD). Matters

that affect the physical state or enjoyment of the property or the locality were to be taken as at 15 May 2019 (material day) for this appeal.

20 Upon consideration of the available evidence in this appeal, I concluded that the appellant had demonstrated that the rate/m^2 applied in the assessment of the appeal land was excessive. However, I was not persuaded that it should be valued at the rate proposed by the appellant.

21 From the photographs submitted and the comments of the appellant when describing the nature of the land and its restricted use, I am persuaded that the appeal land would be better described as unsurfaced fenced land, given that after its former use as a fuel and oil depot the areas of the underground storage tanks had just been made up with soil, sand and some stones. Within the schedule provided by Mr Walker, unsurfaced fenced land was valued at 70% of the price of the hard surfaced land.

22 However, the appellant had submitted that this unsurfaced land comprised soft, waterlogged ground that flooded due to the lack of any drainage. This, and its access, had prevented the landlord from letting the land independently without the need to undertake work. The appellant had explained that all of the land had been unable to be utilised and that which could was only accessible for a very restricted period of time and only by off-road vehicles. I am persuaded that these factors would have a detrimental effect on the rental bid of the hypothetical tenant coming fresh to the scene, and for this reason, I consider the appeal land should be valued at 60% of the rate applicable to the hard surfaced land, in effect at a rate of £8.40/m^2.

23 Having regard to the above, I determined the following revised assessment for the land subject to appeal.

Description	**Area $m/^2$**	**£/m^2**	**Value £**
Unsurfaced fenced land	1232	8.40	10,349
		Total	10,349

Say £10,250 with effect from 15 May 2019.

Order

24 As a consequence of the above, the VO is ordered to amend the 2017 rating list entry for Land Adjacent to Tiger Plant Ltd, Tiger Plant Yard, Swindon, SN3 4PD, to £10,250 RV with effect from 15 May 2019, within two weeks of the date of this Order.

Refund of fees

25 The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended). This will be arranged by the Tribunal’s administrative office as soon as possible, provided no review of the decision takes place.

Date: 27 February 2024
Appeal Number: CHG100786722

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.