THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Factory and Premises; Level of value; Comparable properties; *Appeal allowed in part.*

RE: 55 Aidan Court, Bede Trading Estate, Jarrow, Tyne and Wear NE32 3HG

APPEAL NUMBER: CHG100812470

BETWEEN: Dormakaba UK 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 Herron – Appellant's representative (Altus Group)

Mr O Ridley – Valuation Officer's representative

Summary of decision

1. The appeal was allowed in part. The appeal property's current assessment was reduced from £49,750 Rateable Value (RV) to £47,500 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 12 April 2023 and his representatives then appealed the VO's decision to the Tribunal on 23 June 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 Herron 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 Herron'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.

Issue

7. The appellant's representative contended that the rate adopted for the appeal property was excessive. He sought a reduction of the unadjusted rate to £42.50/m² whilst the Valuation Officer (VO) contended that the existing £53.50/m², was reasonable.

Evidence and submissions

8. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental and assessment evidence, details and photographs of the subject property, the parties' comparable properties, location plans and their skeleton arguments.

9. The subject property was described as a factory and premises built in 1992. It comprised a detached industrial unit on Aidan Court within Bede Trading Estate in Jarrow, providing a mix of production space and ancillary office accommodation. It was assessed within valuation scheme 387283 which was applicable to Aidan Court and other industrial units constructed in the 1990s, although all 5 assessments within the scheme are in Aidan Court.

10. The subject property is owned by Northern Trust who own all the units on this particular development.

Decision and reasons

11. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

12. The appellant's representative referred to the rent passing on the subject property. It is held on a new 10-year lease effective from 31/03/2012 at a rental amount of £36,200 per annum, but subject to a rent of £34,770 for years 1-4. It is held on full repairing and insurance terms. The rent averages to £35,040 per annum and, using an ITMS of 933.01m^2, this analyses to £37.56/m^2, significantly lower than the current main space price of £53.50/m^2. The rent was reviewed on 31/03/2017 to a figure of £42,250 per annum. Again, using an ITMS of 933.01m^2, this rent analyses to £45.28/m^2, which is lower than the current main space price.

13. In support of his case, the appellant's representative referred to slightly older comparable properties at 45 and 46 Cuthbert Court, Bede Trading Estate, just a short distance from the subject property. These properties were also owned by Northern Trust. Number 46 Cuthbert Court was of a similar size to the subject property at 901.02m^2 and 45 Cuthbert Court measured 618.30m^2. Both had been valued at £40.00/m^2. The respondent believed that these two properties appeared to support the rental analysis for the subject property.

14. In addition, the appellant's representative showed that on the 2010 Rating List and the forthcoming 2023 List, a quantum adjustment had been made between the subject property and the comparable properties. Even allowing for potential quantum, the appellant's representative believed that the rental evidence showed the main space price to be excessive. Based upon the rental and comparable assessment evidence, the appellant's representative sought a revised main space price of £42.50/m^2 for the subject assessment.

15. In commenting on the respondent's comparable properties in Aidan Court, the appellant's representative contended that they were all smaller than the appeal property and their rental evidence should be weighted accordingly.

16. The respondent had provided rental details for 54A, 54B, 56 and 57 Aidan Court. The analysed rents for these properties ranged from £50.50/m^2 to £58.87/m^2. Number 54A was valued at £57.00/m^2 as a main space price whilst the other three properties were valued at £53.50/m^2. The respondent contended that based on the wider basket of rents and the growth in the rental market, £53.50/m^2 was reasonable for the subject property.

17. Having considered the evidence provided by the parties, the panel found there were no other details for Cuthbert Court other than reference to their size and adopted rate. With no rental evidence, they provided little assistance in determining the level of value for the subject property. Furthermore, it was noted that they were in a different valuation scheme.

18. The panel examined the rental evidence from Aidan Court. 54A and 54B were both new rents from 2017 and 2013, respectively. The rent passing on 54A was £21,000 for a term of six years and for 54B it was £24,000 for a term of ten years. These rents analysed to £56.50/m^2 for 54A and £50.30/m^2 for 54B. It was noted that neither of these rents were close to the antecedent valuation date and that the two properties were significantly smaller than the subject property.

19. Numbers 56 and 57 Aidan Court were lease renewals in 2018 and 2017 for 6 and 5 years, respectively. The rent passing on 56 Aidan Court was £43,475 per annum which analysed to £56.18/m^2 and £58.87/m^2 for 57 Aidan Court. The panel found that these lease renewals were both sometime after the antecedent valuation date to be useful and both were smaller properties compared to the subject property.

20. The panel noted there were varying rates adopted in Aidan Court. Having considered the size of the subject property compared to the others on the same estate, the panel decided that the unadjusted rate should be reduced from £53.50/m^2 to £51.00/m^2, as set out below. The panel was aware that it should not deviate from the Valuation Officer's scheme unless the evidence was convincing. In this case, the panel believed that it was convincing enough for the subject property to be valued slightly lower than the lowest value within the scheme (£53.50/m^2). The panel found that the analysed rent on the subject property of £45.28/m^2 in 2017 and £37.56/m^2 in 2012, clearly showed a quantum adjustment for size was justified. However, the panel considered that the unadjusted rate sought by the appellant's representative of £42.50/m^2 was too low when looking at the wider basket of rents.

Floor	Description	Area per m^2	Price per m^2	Value
Ground	Workshop	645.17	51.00	32,904
Ground	Internal storage	3.80	51.00	184
Ground	Office	134.07	56.10	7,521
First	Office	124.15	56.10	6,965
		933.01 ITMS		47,574
		907.19 Total	say	47,500

Order

21. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list to show a revised assessment of £47,500 RV for the appeal property, with effect from 1 April 2017.

22. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

23. 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 (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: Tuesday 9 January 2024

Appeal number: CHG100812470

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.