THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Factory and Premises; End allowance for layout; Appeal allowed in part.

RE: Meredith and Eyre Ltd, Broadway Industrial Estate, Hyde, Cheshire SK14 4QF

APPEAL NUMBER: CHG100813743

BETWEEN: Meredith and Eyre 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 A Fowke – Appellant's representative (Altus Group)

Ms J Willis – Valuation Officer's representative

Summary of decision

1. The appeal was allowed in part. The appeal property's current assessment was reduced from £97,000 Rateable Value (RV) to £94,500 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 19 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 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 Fowkes' 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 full verbatim record of proceedings.

Issue

7. The issue in dispute was whether a 5% end allowance was justified for the poor layout of the site to reflect the disadvantages attached to the subject property.

8. The appellant's representative sought a revised RV of £92,000 whilst the VO's representative believed that the current RV of £97,000 was reasonable with effect from 1 April 2017.

9. The 5% allowance for mixed ages was accepted as having already been reflected in the assessment and was not pursued at the hearing.

Evidence and submissions

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

11. The subject property was described as a factory and premises built in 1973 and extended in 1993. The property is of portal frame construction over two floors, with brick cladding and an asbestos pitched roof. The property is made up of three warehouses separated by two walls with two small openings in the middle of the units linking them together. There are three external stores to the rear.

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 two small openings linking the three separate main workshops together created a layout issue. The openings were believed to be approximately two to three metres wide. In addition, there were three external stores in the valuation where the only access was from an external door. They were also split from the rest of the property and spread across the yard area which further added to the layout issue. He provided an aerial image of the subject property to highlight the layout issues.

14. The appellant's representative had provided details of 10 assessments where allowances ranging from 2.5% to 10% had been given for various disabilities on properties in Hyde and a greater area. These properties covered various descriptions, sizes and valuation schemes. Based upon the comparable assessment evidence, the appellant's representative sought a 5% end allowance for layout issues in his revised RV of £92,000 for the subject assessment.

15. The respondent had inspected the subject property on 27 November 2023. She understood that the current occupiers had been in occupation of the subject premises for some time and were in occupation when it was extended in 1993. She contended that the current layout of the premises must have suited the occupiers as they could have extended the property without the dividing walls or created larger opening between the units. This could have suited other potential occupiers and therefore it would have no effect on the potential rental value. In addition, the appellant's representative suggested that having the three external stores also disadvantaged the layout of the property. However, not knowing the nature of the stores or how having them accessed externally would adversely affect the operation of the site and its desirability did not suggest that the layout was poor.

16. The respondent referred to four pieces of comparable evidence for properties in the Manchester, Bolton and Oldham areas where no allowances had been given for sites with separate units. The respondent mentioned the case of *J Rosenthal & Son Ltd v Rushall (*VO) appeal no. 237210269817/126N05 which stated, "It was therefore incumbent on the agent to show the justification for the allowances on his comparables was mirrored by the circumstances at the appeal property".

17. Furthermore, in the case of *The Occupier v Stauder* (VO) appeal no.232017696805/125N10 it suggested that "the granting of end allowances will always depend on the particular facts affecting any property. It is unreasonable to assume that, simply because one property has an assessment incorporating an end allowance, that another should automatically be entitled to the same allowance".

18. In respect of the comparable properties put forward by the appellant's representative, the respondent believed that they were not helpful as they covered sloping sites or access issues as opposed to layout issues. The respondent confirmed that the headroom in the workshop areas had been taken into account and reflected the slight slope between the bays. The respondent was of the opinion that no allowance was justified for layout, and she sought a dismissal of the appeal.

19. The only issue to determine in this appeal was whether a 5% allowance for poor layout was justified. Having examined the evidence presented, the panel noted that the comparable properties put forward by the parties were not close in terms of location. Furthermore, no details were provided by the appellant's representative as to why these allowances had been given to the properties other than being for layout, divided/split unit. The panel attached little weight to these comparable properties.

20. In relation to the layout, the panel understood there were issues. It was aware that the headroom within the workshops had already been reflected in the assessment to some degree. However, it was confirmed by the appellant's representative, during questioning, that the difference in floor levels between the original bay and the middle bay was around half a meter. The panel understood that vehicles, such as forklift trucks, had to adjust the height level of the front forks when travelling between the bays to compensate for the slope. The panel believed that the hypothetical tenant would reflect this in his rental bid. With this in mind, the panel determined that a 2.5% end allowance was appropriate to reflect the poor layout of the subject property as set out below.

Floor	Description	Area	£/m2	Value
Ground	External storage	195.10	£21.21	£4,138
Ground	External storage	115.50	£21.21	£2,450
Ground	Offices	77.02	£38.19	£2,941
First	Offices	77.02	£38.19	£2,941
Ground	External storage	154.32	£23.28	£3,593
Ground	Workshop	2,603.66	£27.55	£71,731
Ground	Original offices	55.16	£34.80	£1,920
Ground	Plant room	8.21	£25.45	£290
Ground	Workshop	50.74	£25.45	£1,291
Ground	Offices	102.17	£31.10	£3,177
				£94,391
	Hard surface/fenced land	591.40	£4.00	£2,366
	Plant and machinery			£522
			Sub total	£97,279
	End allowance for poor layout		2.5%	- £2,432
				£94,847
			say	£94,500

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 £94,500 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: CHG100813743

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.