THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; factory and premises; price per m^2 in dispute; rental evidence; comparable properties; allowed in part for revised area.

RE: Site 14 Gooch Avenue, Barrington, Bedlington, Northumberland NE22 7DQ

APPEAL NUMBER: CHG100822083

BETWEEN:	Barrington Metal Works Ltd	Appellant
	and	
	Ms A Hitchings, Valuation Officer	Respondent
PANEL:	Mr C Derrick (Presiding Senior Member) Miss U Haque (Senior Member)	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Monday 18 December 2023	
APPEARANCES:	Mr C Hodgkinson from Altus Group, representing the appellant Mr W Green representing the Valuation Officer	

Summary of decision

1 Appeal allowed in part to reflect an agreed reduction in area. The panel confirmed a revised rateable value (RV) of £11,250 with effect from 1 April 2017.

Introduction

2 This is a 2017 rating list appeal. Site 14 Gooch Avenue, Barrington, Bedlington, Northumberland NE22 7DQ, (the ‘appeal property’) had been entered in the 2017 rating list as ‘factory and premises’ with a RV of £11,750 with effect from 1 April 2017.

3 The challenge proposal was submitted by Altus Group on behalf of Barrington Metal Works Ltd and was received by the Valuation Officer on 28 June 2022.

It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised RV of £9,700 was proposed with effect from 1 April 2017.

4 The Valuation Officer issued a challenge case decision notice on 12 May 2023 which stated that, based upon the evidence and information available, the rating list entry was reasonable and there would be no change.

5 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 27 June 2023.

6 As Mr Hodgkinson appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and, if so, whether its existence was compatible with his obligations to the Tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7 It was established that Mr Hodgkinson's company would receive a conditional fee if the rateable value was reduced as a result of the panel's decision. However, Mr Hodgkinson declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

8 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).

9 The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

10 The appeal property is a 1980's masonry industrial unit situated on Barrington Industrial Estate in Bedlington. The present assessment of £11,750 is based upon a total area of 366.09 m^2, valued at a base price of £34.05 per m^2. The adopted price of £31.54 per m^2 reflects adjustments for lack of heating and poor construction.

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

Issue

12 The issue in dispute is the base price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

13 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge; Valuation Officer's challenge case decision notice; and appellant's challenge submission.

14 The parties confirmed that following an inspection on 5 December 2023, a revised area of 356 m^2 had been agreed. As a result, Mr Green stated that the Valuation Officer sought a revised RV of £11,250. Mr Hodgkinson confirmed that he sought a revised RV of £10,750, based upon the area reduction and his revised opinion of the base rate to be applied at £32.45 per m^2; the challenge submission had proposed a base rate of £28 per m^2.

Decision and reasons

15 In accordance with paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, the appeal property must be viewed vacant and to let and 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. The date of the hypothetical rent is 1 April 2015, the antecedent valuation date (AVD) for the 2017 rating list.

16 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

17 Both parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments of other comparable properties may also be relevant. All of the evidence could then be weighted.

18 As the appeal property's lease commenced on 31 August 2011 at a passing rent of £12,678 per annum, it was too far removed from the AVD, and therefore held little weight.

19 The appeal property had been valued in scheme 346226 which applied to industrial properties built between 1971 and 1989 on the Barrington Industrial Estate.

20 Mr Hodgkinson contended that scheme 346227 was a direct comparable, as it applied to industrial units on the same estate. This scheme applied to properties built from 1990, however, they were valued at a lower base rate than the subject. Mr Hodgkinson referred to Unit 1 Bowes Court, a workshop and premises of 336 m^2, valued in scheme 346227. It had a five year lease from April 2016 at a rent of £10,000 per annum, which analysed at £30.07 per m^2. It had been valued at a base rate of £32.45 per m^2 which was less than the appeal property for a newer, better quality unit.

21 Mr Green described Unit 1 Bowes Court as an end of terrace property with a lower eaves height, no offices, kitchen or toilet facilities, no side access and limited parking. The appeal property was a detached unit with a main workshop area, separate offices and a large amount of land. Based upon the physical differences outlined, the panel was satisfied that Unit 1 Bowes Court was not relevant for comparison with the appeal property.

22 The panel attached most weight to the comparable evidence derived from the same valuation scheme. Four rental transactions were scheduled by the Valuation Officer, which demonstrated to the panel that the base price of £34.05 per m^2 applied to the appeal property was not excessive:

Unit 2 Stephenson Court

A smaller unit of 231.78 m^2 valued at a base rate of £36.42 per m^2. A rent effective from 1 March 2015 analysed at £37.08 per m^2.

Site 13 & 19, Stephenson Way

A larger unit of 756.23 m^2 valued at a base rate of £29.51 per m^2. A rent effective from 1 January 2015 analysed at £25.48 per m^2.

Unit 9 Stephenson Court

A smaller unit of 112.82 m^2 valued at a base rate of £39.11 per m^2. A rent effective from 3 September 2014 analysed at £36.80 per m^2.

Units 7 & 8 Stephenson Court

A smaller unit of 225.64 m^2 valued at a base rate of £36.42 per m^2. A rent effective from 3 April 2014 analysed at £32.99 per m^2.

23 The appellant's case had relied solely upon comparison with Unit 1 Bowes Court. Having determined that there were significant physical differences, the panel held that the appeal could not succeed on this basis. The panel concluded that the weight of the evidence presented demonstrated that the base price of £34.05 per m^2 for the appeal property was not unreasonable.

24 The appeal was allowed in part to reflect the agreed reduction in area only.

Floor	Description	Area m^2	£ per m^2	Value (£)
Ground	Workshop	287.14	31.54	9,056
Ground	Office	13.21	36.52	482
Ground	Corridors	14.32	33.20	475
Ground	Office	15.68	36.52	573
Ground	Kitchen	10.32	36.52	377
Ground	Staff toilets	6.39	33.20	212
Ground	Staff toilets	9.24	33.20	307
			Valuation sub-total	11,482

Rounded down to £11,250 RV with effect from 1 April 2017.

Order

25 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 alter the entry in the rating list to rateable value £11,250 with effect from 1 April 2017.

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

27 A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 16 January 2024

Appeal Number: CHG100822083

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.