THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; Local Government Finance Act 1988; Area Measurement; Gross Internal Area; RICS guidance; Air conditioning; Comparable assessments; Appeal dismissed.

RE: Unit F, Breightmet Fold Lane, Bolton, Greater Manchester BL2 6PP

APPEAL NUMBER: CHG100828436

BETWEEN:	Greenhalgh's Craft Bakery Ltd	Appellant
	and	
	Ms Amanda Hitchings (Valuation Officer)	Respondent
BEFORE:	Ms Aruna Verma	(Chair and Senior Member)
	Mr Jim Percival	(Senior Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 2:	21 July 2023	
PARTIES PRESENT:	Mr Ken Batty of Ken Batty Chartered Surveyors	Appellant's representative
	Mr David Walker	Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £15,250 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 F, Breightmet Fold Lane, Bolton, Greater Manchester BL2 6PP.

3. This was a single storey retail warehouse and premises of steel portal frame construction in a retail park two miles to the east of Bolton town centre. It had an area of 93m^2.

4. Through the Check, Challenge, Appeal (CCA) process the appellant's representative proposed that the appeal property RV was excessive and should be reduced to £12,400 based on the sales area being 73.1m^2 as opposed to 93m^2 and the application of relativities to ancillary spaces.

5. The challenge was completed on 16 February 2023 and the valuation officer (VO) determined that the proposal was not well-founded. The appellant appealed to the Valuation Tribunal.

6. Mr Ken Batty 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. There was no dispute over the overall area of the premises being 93m^2 and valued at an unadjusted rate of £160/m^2, however, the appellant's representative stated that certain parts of the premises should have different relativities and that the air conditioning only covered the sales area of 73.1m^2.

Decision and reasons

12. The panel was aware of the definition of rateable value in paragraph 2(1), Schedule 6 to the Act (as amended) of the Local Government Finance Act 1988, however, the only areas in dispute in this case were the layout of the property and the valuation of the respective parts of it. The material day for this appeal was 1 April 2017.

13. The panel noted that the VO had calculated the total area of the premises as 93m^2 in accordance with the guidance provided by the Royal Institute of Chartered Surveyors

(RICS). This was its Gross internal Area (GIA) and included the toilets. Further, the VO had made an assumption that in modern A1 retail parks such as this, the air conditioning system would be sufficient to deal with all the retail space in the unit.

14. The appellant's representative advised that the occupiers had built internal walls reducing the sales area of the premises to 73.1m^2. These walls were floor to ceiling and therefore the air conditioning system would not have any effect in the confined area. He further contended that the GIA related only to the overall measurement of the property but for valuation purposes certain areas should be treated differently.

15. The panel noted that he had not provided a plan of the internal layout of the premises nor any guidance from RICS or any other body in support of his contention that the valuation should take account of the sectioned off areas. Further, he had not provided any details of any valuations of retail warehouses in the manner that he had proposed.

16. The panel found that the GIA had been correctly calculated and the whole of the area of 93m^2 should be valued under one valuation as on a retail warehouse scheme. The panel were presented with evidence that showed that other similar retail premises in the locality of the appeal property were valued in this way.

17. The panel found that, in cases of this nature, the onus was on the appellant to prove his case. The panel found that his case had not been proven and dismissed the appeal.

18. The panel confirmed the RV as £15,250 with effect from 1 April 2017.

Date: 8 August 2023

Appeal number: CHG100828436

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.