VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: Local Government Finance Act 1988; factory and premises; comparable evidence: end allowances for fragmentation, site coverage, access and shape issues: number of car spaces; value to be adopted for certain units on site; weighting of evidence; appeal allowed in part.

APPEAL NUMBER:	CHG100837374
RE:	JOHN GUEST (FACTORIES 2A 2B 2C 9 & 10) LEYBOURNE WHARF / LIDDALL WAY, HORTON ROAD, UXBRIDGE, Middlesex UB7 8PG (the “subject property”)
BETWEEN:	Reliance Worldwide Corporation — Appellant
	and
	Mr A Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	07/06/2024 10:00
BEFORE:	Dr T Gledhill, Presiding Senior Member
CLERK:	Mrs S Morgan
APPEARANCES:	Mr M Webb – Appellant’s representative (Colliers International) Mr O Ogbesoyen – Valuation Officer’s representative

---

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part to the extent conceded by the valuation officer’s representative.

2. The appeal property’s current assessment was reduced from £450,000 Rateable Value (RV) to £400,000 RV with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. The subject property had been entered in the 2017 rating list as ‘factory and premises’ at a RV of £450,000 with effect from 1 April 2017.

4. 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 10 October 2023 and his representatives then appealed the VO’s decision to the Tribunal 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.

5. The subject property had a total floor area of 9,953.14m^2 (Total Significant Area of 6436.12m^2) and is located on Horton Road, which is just off High Street in Uxbridge, Middlesex. It comprises buildings of different age which include factories 2A, 2B, 2C, 9 and 10.

6. The VO’s records showed that factories 2A and 2B were built in 1976 of concrete frame construction and brick walls. This factory appears to be refurbished around 2006 and has had its roof replaced with profile metal sheet covering. Factory 2C is a newer unit constructed in 2006, beside factories 2A and 2B with steel portal frame construction while factories 9 and 10 comprises units built in 1980s, also with steel portal frame construction. The property was jointly inspected on 17 August 2023.

7. Mr Webb appeared on behalf of the appellant as both advocate and expert witness and declared that he was not instructed under a conditional or other success-based fee arrangement. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Webb’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.

8. Mr Ogbesoyen, on behalf of the respondent, was acting in the dual role as advocate and expert witness.

9. The hearing was held remotely via Microsoft Teams.

10. Under Tribunal Business Arrangements, I could hear this appeal alone, as the other member selected to attend this hearing was unable to participate on the morning of the hearing and a replacement member could not be found at short notice.

11. This statement of reasons is not and does not purport to be a verbatim record of the proceedings.

<u>*Background*</u>

12. Arguments and factual evidence from both the appellant’s representative and the VO’s representative were provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant’s representative’s challenge submission, a map demonstrating the location of the subject, the respondent’s challenge decision notice and reference to, and photographs of, properties deemed comparable to the subject

hereditament. The Lands Tribunal's judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 was also referred to.

13. The appellant's representative sought a reduction to £350,000 RV. He contended that the following issues should be reflected in his revised assessment.

    1) The car parking within the assessment is incorrect and excessive. He sought to include 46 car spaces @ £235 per space rather than 75 spaces.

    2) The tone applied to factories 2A, 2B and 2C is excessive as it did not reflect their age. He sought these to be valued at £40/m^2 for 2A and 2B.

    3) There should be higher allowance to account for fragmentation and additional repair liability with a 17.5% end allowance.

    4) The valuation should have further allowances for the sloping site, poor access and inefficient shape that should be reflected in the valuation with an end allowance of 15% for poor access on this site and a further 5% for site coverage.

14. The VO's representative stated that the car park spaces had already been reduced from 75 to 66 at the check stage. Furthermore, factories 2A and 2B were valued at a base rate of £67.50/m^2 and applied 10% allowance as survey unit adjustments. A 7.5% fragmentation end allowance was granted for divided/split unit which was then increased to 15% following the evidence on the Dar Light Ltd appeal at Wildmere Road, Banbury Oxon OX16 3JU. Having applied these reductions, resulted in a lower rateable value for this property from what was in his Decision Notice. In addition, he had already granted a poor access allowance of 15% as survey unit adjustment for the parts most affected. In view of the additional evidence provided by the appellant, the VO's representative sought a revised figure of £400,000 RV with effect from 1 April 2017.

Relevant Law

15. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.6 to the Local Government Finance Act 1988, which provides:

    "(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local nondomestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—

    (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

    (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic.

    (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

Discussion

16. The subject 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 be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

17. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

18. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day was 1 April 2017.

19. It is a well-established rating principle that the starting point in the determination of a property's RV should be the rent passing on the subject hereditament itself as held in *Lotus and Delta* when presented, rents on similar properties could also be considered. However, no rental evidence from either the subject property, or from any comparable properties were provided by either party for me to consider. The subject property was stated to be occupied freehold.

20. In relation to the first issue regarding the car parking spaces, the appellant's representative, with the aid of photographs, contended that not all car spaces were useable particularly those in front of certain loading doors. Although these spaces were marked on the ground they were not being used by the occupier. This area in front of the loading doors was generally cordoned off to allow for access, turning and egress into the units. He also contended that spaces were being valued in the areas where they could not be accessed as they were double parked. He sought a reduction to 46 spaces.

21. The VO's representative stated that he had reduced the number of car spaces at check stage from 75 to 66 spaces. He believed no further reduction was justified.

22. Having considered the number of car spaces, I am satisfied that 66 spaces is reasonable. These were marked spaces which could be used. Furthermore, neither party could confirm whether these marked spaces in front of the loading bay were in use at the material day.

23. With regard to the issue of fragmentation, the appellant's representative explained that the site had been expanded over the years and was made up of seven different buildings all with different repair liabilities and some were physically separated, and some were adjoining with structural internal walls. He contended for 17.5% allowance at the hearing to reflect this "highly irregular shape and unique layout". The appellant's representative referred to the Dar Lighting Ltd case which was a similar arrangement of buildings where 15% fragmentation was awarded. In addition, he gave examples of warehouse premises where allowances for

fragmentation ranged from 5% to 10% and to BMI, Vantage Point Business Village where a 20% allowance was awarded for fragmentation.

24. The VO's representative contended that the 15% allowance already conceded was sufficient to reflect the fragmented site and was in line with the additional evidence at appeal on Dar Lighting Ltd. The evidence in Dar Lighting Ltd along with the appeal property's site layout/key floor plans had been reviewed and the VO's representative decided to increase the level of fragmentation allowance from 7.5% to 15%. He explained the interconnection between the buildings and contended that no evidence had been provided to show that the site had become more fragmented or that the impact was now more significant than ever, insofar as a reasonable landlord would grant an additional reduction in the annual rental value.

25. Having considered the evidence in the Dar Lighting Ltd case, I noted that a 15% allowance was given in that case for a similar arrangement of building compared with the subject property. Although I find that each case should be considered on its own merits, I am satisfied that a 15% allowance is justified for fragmentation for the subject property in line with the Dar Lighting Ltd assessment. I am not convinced that the allowance of 17.5% as sought by the appellant's representative was warranted.

26. In relation to age and tone argument, the appellant's representative had contended that factories 2A and 2B, were built in the 1950's and should be valued at the same base rate of £45/m^2 as Unit 5 John Guest Ltd (Factories 3, 4, 5, 7 & Claremont House).

27. The VO's representative remained of the opinion that factories 2A and 2B were better quality than Unit 5 at Claremont House having been refurbished in 2006. However, on reflection, he believed it would not be unreasonable to apply a reduction to the value adopted. The factories were currently valued at £67.50/m^2 with an allowance of 10% to arrive at an adopted value of £60.75/m^2. Following his review, he increased this allowance to 20%, which reduced the adopted value from £60.75/m^2 to £54/m^2 against the £45/m^2 proposed.

28. I considered the values applied to factories 2A and 2B and I am satisfied that £54/m^2 appears reasonable for these two units. Having been refurbished in 2006, they appear of better quality than the comparable building at Claremont House which was valued at £45/m^2.

29. In relation to site access, inefficient shape and site coverage, the appellant's representative believed that these elements should be reflected in the valuation as this reduced the efficiency of the site. This also affected the amount of car parking and as a result the occupiers had taken two additional off-site car parks at significant costs. The site coverage of the hereditament (in other words, the building covering the site) was 70% which was significantly higher than the normal 50% which would usually be expected for a site of this size. The high site coverage reduced the usability and efficiency of the site as circulation space is reduced. He sought a 15% allowance on this site to reflect the site coverage issues resulting from the limited amount of land following the development of the site over time producing less car parking being available. In addition, the appellant's representative provided an aerial photograph to show that the irregular shape was a significant inconvenience to the occupiers and that it should be reflected in the valuation. He provided a schedule of comparable properties where allowances had been granted to account for the irregular shape. He sought a 5% allowance for shape.

30. The VO's respondent stated that he had already granted a poor access allowance of 15% as a survey unit adjustment for the parts most affected within the site and that he believed that this level of allowance was fair and reasonable. In relation to the shape arguments, the VO's representative was of the opinion that it was not unusual for industrial units to be built with recessed elevations and therefore he did not consider shape to be an issue within this unit. When looking at disabilities we consider if a landlord would grant an allowance for that disadvantage because not all disabilities are value significant.

31. Following the inspection, the VO's representative noted that internally, this is one large unit, and the shape was not noticed to have any impact on operations. The only part that appeared irregular was the two-storey building at the end of factory 2A, which appears to be used as offices. However, vacant and to let this was not considered a disadvantage because it was located away from the disturbance that may have taken place within the factory. He therefore believed that no allowance for shape was justified.

32. Having examined the arguments for an allowance to cover access, site coverage and car parking, I find there is no justification for any further allowances for these issues. I was satisfied that the allowances conceded by the VO's representative appeared to be fair and reasonable. There had been a 15% allowance for poor access for the parts most affected within the site and there appeared to be no disadvantaged to the shape of the building. In relation to the site, if the subject property was available to let on the statutory terms of the hypothetical tenancy, the particular needs or concerns of any current occupier would not be considered. There was no evidence to suggest that an incoming tenant would pay for additional car parking off site.

33. In view of the above findings and conclusions, I find that the allowances already conceded by the VO are reasonable. I therefore allow the appeal in part with reduced RV of £400,000 with effect from 1 April 2017, as outlined below.

Floor	Description	Area/m^2	£ per/m^2	Value
GF	Office	70.02	81.00	£5,672
FF	Office	100.57	81.00	£8,146
GF	Warehouse	226.48	67.50	£15,286
GF	Whs under supported 1st Floor	801.78	47.25	£37,884
Mezz	Supported first floor	801.78	33.75	£27,060
GF	Warehouse	789.51	67.50	£53,292
GF	Whs under supported 1st floor	243.75	47.25	£11,517
Mezz	Supported 1st floor	243.75	33.75	£8,227
GF	Office	60.40	81.00	£4,892
FF	Office	90.40	81.00	£7,322
GF	Production Area	1010.74	67.50	£68,225
GF	Office/reception	8.50	55.08	£468
GF	Office	154.00	55.08	£8,482
FF	Office	170.20	55.08	£,9375
GF	Office	18.13	50.49	£915
GF	First Aid Room	8.95	50.49	£452

GF	2 Locker rooms	21.32	50.49	£1,076
Mezz	Canteen	198.56	45.90	£9,114
GF	Factory under supported floor	683.43	32.13	£21,959
GF	Production area	621.07	45.90	£28,507
Mezz	Supported 1st floors	1016.10	22.95	£23,319
GF	Production Area	67.89	45.90	£3,116
GF	Factory under supported floor	602.60	32.13	£19,362
Mezz	Supported 1st Floor	601.41	24.10	£14,494
GF	External storage	139.00	15.30	£2,127
Mezz	Office built in	245.42	49.50	£12,148
GF	Factory under supported floor	547.40	63.00	£34,486
Mez	Supported 1st floor	410.00	45.00	£18,450
Surfaced open spaces		66	235	£15,510
	Sub total			£470,884
Divide/split adjustment	-15%			-£70,633
				£400,251
	Say			£400,000

Disposal

34. 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 £400,000 with effect from 1 April 2017.

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

36. 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 issued to parties: 8 July 2024

Right of further 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.
