VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: Local Government Finance Act 1988; factory and premises; comparable evidence: end allowances for fragmentation and site coverage issues: weighting of evidence; appeal allowed in part.

APPEAL NUMBER:	CHG100837377
RE:	JOHN GUEST LTD (FACTORIES 3 4 5 7 & CLAREMONT HOUSE), HORTON ROAD, Uxbridge,UB7 8JL (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

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The appeal property's current assessment was reduced from £605,000 Rateable Value (RV) to £545,000 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 £605,000 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 24 May 2022 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 has a total floor area of 9,982.32m^2 (total significant area of 8,211.65m^2) and was located on Horton Road, which is just off High Street in Uxbridge, Middlesex. It comprised buildings of different ages with eaves height ranging from 4 to 6.75m. The property was inspected on 17 August 2023.

6. 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.

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

8. The hearing was held remotely via Microsoft Teams.

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

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

<u>*Background*</u>

11. Arguments and factual evidence from both the appellant’s representative and the respondent 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.

12. The appellant’s representative sought a reduction to £515,000 RV. He contended that the valuation should have 15% allowance for fragmentation, a further 5% allowance for access/site coverage/car parking and 10% for inefficient shape should be reflected in the valuation.

13. The VO's representative stated that the 6% allowance for divided/split unit as an end adjustment was increased to 10% at appeal stage following the evidence on the Dar Lighting Ltd appeal at Wildmere Road, Banbury Oxon OX16 3JU. A 15% allowance had already been granted as survey line adjustment for low head room on the unit with floor area of 145.92m^2 and a further 5% as line adjustments for inefficient shape. This brought the allowance on this unit to 20%. A 5% allowance had already been granted for layout as survey unit adjustment to unit 5. This reduced the rateable value from £605,000 to £580,000 with effect from 1 April 2017.

Relevant Law

14. 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

15. 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.

16. 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.

17. 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.

18. 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.

19. Taking the issue of fragmentation first, the appellant's representative explained that the site had been expanded over the years and was made up of several different buildings all with different repair liabilities. He contended for 15% allowance to reflect this "highly irregular and unique layout of five different buildings". The appellant's representative referred to the Dar Lighting Ltd case which was a similar arrangement of building where 15% fragmentation was awarded. In addition, he gave examples of warehouse premises where allowances for fragmentation ranged from 5% to 10%.

20. The VO's representative contended that the 10% allowance already conceded was sufficient to reflect the fragmented site. He argued that no evidence had been provided to show that the site had become more fragmented that the impact was now more significant than ever, insofar as a reasonable landlord would grant additional reduction in the annual rental value.

21. 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 evidence in Dar Lighting Ltd.

22. In relation to site access, site coverage and car parking, the appellant's representative believed that the access and the high site coverage should be reflected in the valuation as this reduced the efficiently of the site. This also affected the amount of hard standing for car parking and as a result the occupiers have taken two additional off-site car parks at significant costs. The site coverage of the hereditament was 70% which was significantly higher than the normal 50% which would usually be expected for a site of this size. He sought a 5% allowance to reflect the site coverage issues resulting from the limited amount of land following the development of the site over time producing the availability of less car parking.

23. The VO's representative contended that his office records showed that the subject property had a total floor area of 9,982.32m^2 and 176 car park spaces within the same site. He argued that there was no evidence to suggest that the hypothetical tenant would pay for additional car parking off site. He therefore believed that no allowance was warranted for the site coverage issues.

24. 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. 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 inference, but no evidence provided that would suggest an incoming tenant would have to pay for additional car parking off site.

25. There were no further arguments for any other allowances. I also noted that prior to the hearing there was a slight difference in relativities between the parties however the

appellant's representative had adjusted his valuation to match that of the VO's, so there were no further matters concerning relativities. I therefore allow the appeal in part to a reduced RV of £545,000 with effect from 1 April 2017, as outlined below.

Floor	Description	Area/m^2	£/m^2	Value
GF	Office	232.66	108.31	£25,199
FF	Office	232.62	108.31	£25,195
GF	AUSF	44.5	56.00	£2,492
M1	Internal Storage	44.5	40.00	£1,780
GF	Office	88.0	108.31	£9,531
GF	Office	265.30	102.89	£27,297
FF	Office	164.10	108.31	£17,774
FF	Office	107.20	108.31	£11,611
FF	Mess	226.40	94.32	£21,354
FF	Production	5.40	50.70	£274
GF	AUSF	48.14	56.00	£2,696
GF	Office	60.13	99.28	£5,970
GF	Production Area	1208.00	80.00	£96,640
GF	AUSF	1549.00	56.00	£86,744
M1	Internal Storage	1561.78	40.00	£62,471
GF	Office	64.5	90.25	£5,821
M1	Office	51.78	90.25	£4,673
GF	Office	665.31	54.00	£35,927
FF	Office	631.76	54.00	£34,115
GF	Warehouse	282.66	42.75	£12,084
GF	Warehouse	220.84	42.75	£9,441
GF	Warehouse	145.92	34.52	£5,037
GF	Warehouse	651.56	42.75	£27,854
GF	AUSF	112.61	29.93	£3,370
M1	Store	112.61	21.38	£2,408
GF	Security	160.41	54.00	£8,662
GF	Warehouse	326.7	45.00	£14,702
FF	Office	160.41	54.00	£8,662
FF	Office	209.82	72.60	£15,233
GF	Office	209.82	72.60	£15,233
FF	Concrete mezz	137.88	27.79	£3,832
Sub total				£604,081
Outside	Parking Spaces	176	£235.00	£41,360
Adjustment	Fragmentation	-15%		-£96,819
	Total			£548,624
	Say			£545,000

Disposal

26. In view of the above findings and conclusions, I am satisfied that that a 15% allowance for fragmentation was justified but that there was no further allowance warranted for the site coverage issues.

27. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £545,000 with effect from 1 April 2017 within two weeks of the date of this order.

Refund of appeal fee

28. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately 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.
