THE VALUATION TRIBUNAL FOR ENGLAND

Non Domestic Rating Appeal; 2017 Rating List; Warehouse and Premises; Rental evidence; Value of associated land; Comparables; satisfied that land was ancillary and should be valued as such; Appeal allowed.

RE:	(inc. Site 2B) Units 6-6A & 7 Standard Industrial Estate, Factory Road, London E16 2EJ (the "appeal hereditament")
APPEAL NO:	CHG100865927
BETWEEN:	The Metal Recycling Group Limited (represented by Altus Group) *(*Appellant)
and	Mr A Ricketts (Valuation Officer) (Respondent)
BEFORE:	Mr D Hogg (Senior Member) and Mr S Hooberman
CLERK:	Mr J Massey
REMOTE HEARING:	12 January 2024
APPEARANCES:	Mr M Clayton of Altus Group representing the appellant. Mrs V Paramasivam for the respondent.

Summary of decision

1. The appeal was allowed and the assessment was determined at £178,000 with effect from 10 May 2019.

Introduction

2. This was a 2017 Rating List appeal and the rateable value of the appeal property was £212,000 with effect from 10 May 2019. This was a compiled list appeal so the material day was also 10 May 2019. The appeal was made following the Valuation Officer's Challenge Decision Notice of 28 April 2023 in respect of the appeal property.

3. The subject hereditament was described in the rating list as ‘Warehouse and Premises’ and comprised a warehouse unit of steel frame construction with eaves height of 4.88m. Accommodation totalling 1,987.20 m^2 was arranged over two floors, with ground and first floor offices and storage land measuring 7,704.71 m^2. It is located within the industrial area of Silvertown, two miles east of Canary Wharf and London Docklands. The Woolwich Ferry is to the east and the A13/A406 junction is close by to the North. Metal recycling facilities were operational on the site at the material day of 10 May 2019.

4. Both parties appeared before the panel in a dual capacity as both Advocate and Expert Witness. Mr Clayton stated that he was on a success related fee but accepted that his first duty was to the Tribunal and that he would comply with this duty together with the requirements of his professional body, regardless of whether or not the evidence supported the appellant’s case.

5. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), 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 in England).

6. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

7. The statement of truth provided by Mrs Paramasivam confirmed that she was not instructed under any conditional or other success-based fee arrangement.

8. This document is not and does not purport to be a full verbatim record of proceedings.

Issues

9. The issue in dispute was the price per m^2 to be adopted for the land included in the subject hereditament. The Valuation Officer had adopted a rate of £15 per m^2 whilst the appellant’s representative contended for £10 per m^2.

Evidence and Submissions

10. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties’ skeleton arguments, expert witness statements and location maps and photographs of the subject premises and other warehouses in its locality.

11. Mr Clayton contended that the land associated with the hereditament had been over assessed at £15 per m^2 as part of a ‘hybrid’ valuation. He considered that the land should be valued as ancillary space in line with similar industrial properties in the locality, where £10 per m^2 had been adopted for hard-surfaced fenced land. In support of his contention, Mr Clayton provided details of a number of comparable industrial warehouses in the locality, in the same Valuation Scheme (305995) and other valuation schemes, which he believed clearly showed that the rate of £15 per m^2 adopted for the land within the subject hereditament was excessive.

12. Mrs Paramasivam stated that the hereditament was used as a metal recycling facility and the land was used as an integral part of the storage and processing of recycled metal. It formed a significant part of the valuation and as such was not ancillary to the main use of the site, and should be valued as a survey unit with a value of £15 per m^2. She referred to the land at the subject hereditament being certified for its current use by the Environment Agency and its location close to London City Airport. She considered that her comparable rents and assessments indicated that £15 per m^2 was not unreasonable for hereditaments which were mostly land in this location.

Decision and reasons

13. The appeal 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 let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD).

14. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 10 May 2019 for this appeal.

15. The appeal hereditament is let and, in accordance with the principles detailed in *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141, the panel recognised that the passing rent must be the starting point in any consideration of value. The appellant stated that the subject hereditament is currently held on a connected party rent of £300,000 with effect from 01 April 2019 and considered that it held little weight. The respondent was of the opinion that the rent passing indicated that the current assessment of the subject hereditament of £212,000 was not excessive.

16. In respect of the rents passing on the subject property which, in essence, provided the support for the Valuation Officer's argument that the appellant's proposed rate of £10 per m^2 was unreasonable, the panel was provided with limited information. The rent of the whole site in 2019 was found to be of limited value and was given little weight, particularly as it was stated to have been agreed between connected parties. It was thus of limited assistance when assessing a land value. Having regard to *Lotus*, the panel found that the degree of adjustment to this rental evidence to support a rent on a part of that site was great.

17. The panel noted that the subject hereditament had been valued in accordance with valuation scheme 305995 which included industrial properties on the subject estate and others south of the A13, built before 1965. Within this scheme, fenced and surfaced land was shown as an addition and valued at £10 per m^2. The appellant had referred to three other industrial units which had been valued within this scheme and examined their building to land ratio which he argued showed that the amount of land included in the subject hereditament was not excessive compared to other properties within this scheme. He also provided details of other industrial properties in the E16 post code area for which the land had been valued at £10 per m^2 and he considered that these also had similar building to land ratios as the subject property.

18. He considered a key comparable to be Unit 5c, Thames Road, which had a building area of 1079.1m^2 and a land area of 4,196.9m^2, giving it a building to land ratio of 25.7%, compared with 25.8% for the subject hereditament. The VO stated that this was a junk yard, with a warehouse building on it, and that the land was not fenced, hence its lower value of £10 per m^2. The panel noted that it had been valued within the same scheme as the subject property

as Warehouse and Premises and the land as ancillary. It also considered the valuation of its hard surfaced unfenced land at £10 was an anomaly, based on the fact that hard surfaced fenced land was valued at £10 within the scheme, and other comparable properties in the locality.

19. The panel noted that the other comparable properties submitted by the appellant had land valued at £10 per m^2, and many of these had a significant amount of land in comparison to the size of their buildings, as illustrated by their building to land ratios:

- Taylor Woodrow Crossrail Project, Adj. Brick Lane Music Hall, North Woolwich Road, London, E16 1SB - 16.64%
- The Christ Embassy Church, Henley Road, London, E16 2ES - 21.13%
- 10B Cody Business Centre, Cody Road, London, E16 4SR - 37.11%
- Units 3 & 4 Galaxy Business Centre, North Crescent, London, E16 4TG - 31.07%

20. The respondent stated that, in the case of these comparable properties, the land was used for storage of goods or vehicles, or even as part of a TV station, but was considered to be ancillary as it was not used as an integral part of the business to the same extent as it was at the subject hereditament. The panel disagreed with this, particularly in the case of 10B Cody Business Centre, which was a builder's merchant, where it was satisfied that exterior storage of stock was integral to the business.

21. The respondent had referred to a number of properties in the E16 postcode area where values of between £12 and £15 per m^2 had been adopted for hard surfaced, fenced land. She considered that the land at the subject hereditament would be valued at the top of this range due to its being certified for its current use by the Environment Agency and its location close to London City Airport. She referred to the rental evidence on three of these, which she contended supported a value of £15 per m^2 for the subject land.

  - Skanska SQS, Alexandra Wharf, Dock Road, London E16 1AD - rent for land only of £124,560 effective from 9 June 2014. The respondent analysed the adjusted rent to £13.36 per m^2 based on a hard surfaced fenced land area of 6,340m^2. The land is valued at £13 per m^2.
  - Keltbray Ltd, Pt Thames Wharf, Dock Road, London, E16 1AF - rent of £300,000 effective from 1 February 2015 for hard surfaced fenced land of 5,754.50m^2 and buildings including garage, office, shed, car park and plant and machinery. The RV is £105,000 and the land is valued at £15 per m^2. This hereditament was located approximately 1.1 miles from the subject.
  - Recycled Material Supplies Ltd, Bradfield Road, London, E16 2AX - rent of £262,000 effective from 13 December 2016. The respondent analysed the adjusted rent to £15.12 per m^2 based on a hard surfaced fenced land area of 17,159m^2. The land is valued at £12 per m^2 and it is approximately 2.0 miles from the subject hereditament.

22. The panel noted that all three of these properties had been entered in the list as 'Land Used for Storage and Premises', and also that the buildings on the land were of significantly lower value than the subject hereditament or the appellant's comparable properties. In particular, it noted that the valuation for Recycled Material Supplies Ltd contained a portable building of 50.8m^2 and a storage container as additional items, with 17,159 m^2 of hard surfaced fenced land as a survey item. The buildings on both other valuations were also classed as ancillary items.

23. The respondent's comparable properties had all been valued in accordance with valuation schemes for 'Land Used for Storage' sites larger than 4,000m^2, however it noted that neither the subject hereditament, nor any of the appellant's comparable properties with land area of greater than 4,000 m^2 had been placed in these schemes.

24. Having regard to the appellant's comparable properties, the panel found that they were more similar to the subject hereditament in terms of the use of the associated land, and the size and proportion of buildings on that land. It was therefore persuaded that, in line with the appellant's comparable properties as well as the scheme in which the subject hereditament had been placed, the subject land was ancillary to the building, and should be valued at £10 per m^2 in accordance with that scheme.

25. On this basis the assessment was determined at £178,000 rateable value and the appeal was allowed.

Order

26. 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 for the appeal property to £178,000 RV in accordance with the valuation below, with effect from 10 May 2019.

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

Refund of appeal fee

28. A refund of the paid fee will now be arranged under Regulation 13E of the NDR (Alteration of Lists and Appeals) Regulations 2009. The refund will take around six weeks to process.

Date: 1 February 2024

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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.

Floor	Description	Area (m2 /unit)	£ per m2 /unit	Value (£)
Ground	Warehouse	1,158.80	£48.75	£56,492
Ground	Kitchen	17.30	£64.35	£1,113
Ground	Office	13.30	£64.35	£856
Ground	Office	46.70	£64.35	£3,005
Ground	Public Toilets	16.00	£64.35	£1,030
First	Office	81.00	£64.35	£5,212
Ground	Computer Room	25.40	£60.00	£1,524
Ground	Warehouse	180.00	£48.75	£8,775
Ground	Warehouse	338.80	£48.75	£16,517
	Total Area	1,877.30	Subtotal	£94,524
Hard surfaced, fenced land		7,704.71	£10.00	£77,047
Portable Building		110.3	£40.00	£4,412
Plant and Machinery				£889
Car Parking		7	£300.00	£2,100
			Total Value	£178,972
			RV	£178,000