VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; warehouse and premises; end allowance; fragmentation; comparable assessments; appeal allowed.

APPEAL NUMBER: CHG100866073

RE: Tams Packaging Ltd, Sopers Road, Potters Bar EN6 4RY
(“the subject hereditament”)

BETWEEN: Andrew Bennett — Appellant

and

Lucy Dyer (Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 18 July 2024

BEFORE: Mr K Everett (Presiding Senior Member)
Miss F Anderson (Senior Member)

CLERK: Mr S Fletcher

APPEARANCES: Mr M Hawkins of Colliers International (Appellant’s representative)
Mr L Stevens (Respondent’s representative)

DECISION and STATEMENT OF REASONS

Decision

1. Appeal allowed. The panel determined the rateable value (RV) of the subject hereditament to be £58,000 with effect from 1 April 2017.

Introduction

2. The appeal process began with a proposal made by the appellant’s representative on 12 October 2022 in respect of the Valuation Officer’s (VO) compiled rating list entry of the

subject hereditament at £74,000 RV with effect from 15 May 2017. The appellant's representative proposed a revised assessment of £55,500 RV from that date based on end allowances of 5% each for fragmentation, mixed heights, shape, access and the flat roof at the subject hereditament.

3. The respondent issued a challenge case decision notice on 25 October 2023, which stated that based on the evidence available, the existing rating list entry of £74,000 RV was unreasonable and determined a revised entry of £61,500 RV with effect from 1 April 2017. The revised RV accounted for an alteration to treat main space under a supported floor consistently with regard to mixed heights, a 2.5% end allowance for access and a 5% allowance for shape. The appellant's representative appealed that decision to this Tribunal on 22 February 2024 on the grounds that the valuation for the subject hereditament remained unreasonable.

4. The subject hereditament was a warehouse and premises, described as a portal frame industrial built in 1977 and refurbished in 1997. It was located on an estate which comprised primarily industrial properties with a small number of offices on the edge of Cuffley, east of Potters Bar, Herts.

5. Mr Hawkins appeared on behalf of the appellant as both advocate and expert witness. He stated that neither he nor Colliers International were instructed under a conditional fee arrangement.

6. Before presenting his evidence pertaining to the substantive issue of appeal, Mr Hawkins stated that he was now only seeking a 5% end allowance for fragmentation to the respondent's revised valuation, and as such an assessment of £58,000 RV.

7. As part of their induction training, two new members of the tribunal were observing proceedings. It was explained to the parties that it was the panel's intention to invite their colleague to accompany it to the retiring room. The parties were assured that the new members would not participate in the decision-making exercise but would simply observe as part of their training. Neither party raised any issues or objections to this.

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

Issue

9. The issue for the panel to determine was whether an allowance for fragmentation at the subject hereditament was applicable.

Evidence and submissions

10. Arguments and factual evidence from both the appellant's representative and the respondent was provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant's representative's challenge submission, the respondent's challenge decision notice and reference to, and photographs of, properties deemed comparable to the subject hereditament.

11. Further comparable assessments were provided by the appellant's representative prior to the hearing. After discussion between the panel and the parties, the respondent's

representative stated he did not object to their admission. Accordingly, the panel accepted the comparable assessments into the evidence.

Discussion

12. 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.

13. 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.

14. 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 is 1 April 2017.

15. The respondent contended that allowances for fragmentation were typically given where a hereditament was made up of more than one structure, usually separated by a road or other access way which prevented an occupier from efficiently using the space. It was argued that in the case of the subject hereditament, there was no evidence which demonstrated that it comprised of multiple separate properties in common use. The respondent stated that the usage of the areas enclosed by the internal walls at the subject may have been value significant, but the position of the walls would not be. It was considered that vacant and to let, the respondent would expect any incoming tenant to make any necessary alterations, such as piercing a doorway through an internal wall, to facilitate the most efficient use of the space for their business.

16. The respondent’s representative stated that many hereditaments such as the subject have allowances for fragmentation given, however many do not. He accepted the appellant’s contention that the subject hereditament was more fragmented than typical warehouses and premises built in the 1970s and its interior was compartmentalised. He argued that the level of allowance already given at the subject hereditament fairly reflected the main issues at the property being access and shape, which also concerned fragmentation. Therefore, he sought dismissal of the appeal.

17. The appellant’s representative described the interior of the subject hereditament, stating it was a warehouse which consisted of three separate sections which were divided by load-bearing structural walls which reduced the efficiency of the site. He sought an end allowance of 5% to reflect what he considered to be the heavily fragmented nature of the property’s interior. He provided eleven comparable assessments of industrial warehouses where the respondent had given an allowance of 5% to reflect the disadvantages of the properties which were subdivided into at least two sections by internal walls. One of which was Units 5-6 Ouzel Industrial Estate, which had recently been agreed by the appellant’s representative and the respondent and ratified by Consent Order.

18. The appellant’s representative argued that any such hypothetical tenant would reduce their rental bid if presented with a property where its interior was fragmented by interior walls as

opposed to being open, as a fragmented property adds costs to a tenant's operations in terms of moving and handling goods through the site. He disagreed with the respondent's representative's statement that fragmentation had been considered as part of the allowances already given for access and shape. He stated that was not cited in the respondent's challenge decision notice and argued that those allowances were solely for the shared access to the subject hereditament's rear, and its shape being disadvantaged by a railway line.

19. The panel determined that an allowance of 5% for fragmentation at the subject hereditament, as sought by the appellant's representative, was fair and reasonable. It would have preferred it if rental evidence for it to consider of comparable assessments in the locality were provided to demonstrate whether there was a differential between the rents of similar properties which either were or were not fragmented in nature, however, no such evidence was provided. The respondent's representative had agreed with the appellant's representative that the property was atypical of an industrial unit such as the subject hereditament built in the 1970s, and that it was fragmented if compared to a similar property with an open interior. The panel considered that the presence of interior load-bearing walls would naturally negatively impact the effective use of any such floor area. The appellant's representative had provided numerous comparable assessments where an allowance of 5% was given for their internally fragmented nature. It deemed it appropriate for the same allowance to be given at the subject hereditament. The panel also found, in contrary to the contention of the respondent's representative, fragmentation was not considered by the respondent when awarding allowances for access and the shape of the building. Those were clearly given for separate and unique issues at the property, which were the impact to its shape from a railway line and shared access to its rear.

20. The revised assessment for the compiled list entry with effect from 1 April 2017 as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
Ground	Area Under Supported Flr	402.00	24.50	9,849
Ground	Loading Bay	42.24	17.50	739
Ground	Loading Bay	139.92	17.50	2,449
Ground	Warehouse	533.33	36.75	19,600
Ground	Area Under Supported Flr	135.23	24.50	3,313
Ground	Locker Room	106.52	38.50	4,101
Ground	Area Under Supported Flr	25.44	24.50	623
Ground	Plant Room	12.70	35.00	445
First	Office	263.92	42.00	11,085
First	Internal Storage	112.35	22.75	2,556
First	Locker Room	56.63	38.50	2,180
First	Works Office	13.42	22.75	305
First	Locker Room	41.28	38.50	1,589
First	Office	19.98	42.00	839
First	Internal Storage	208.20	22.75	4,737
Mezzanine	Internal Storage	135.23	17.50	2,367
Sub-total				**66,777**

ADJUSTMENTS MADE TO THE SUB TOTAL		
Access	- 2.50%	
Shape	-5.00%	
Fragmentation	-5.00%	
		-8,347
	Valuation sub-total	**58430**
	Say RV	**58000**

Disposal

21. In view of the foregoing, the appeal was allowed.

22. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject hereditament’s entry in the rating list to £58,000 RV with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

23. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date: 30 July 2024

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.
