VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating List; 2017 Rating List: Local Government Finance Act 1988; funeral home; appeal against the accuracy of the rateable value for the hereditament; appeal allowed-in-part.

APPEAL NUMBER:	CHG100874707
RE:	Ian Hazel Funerals, 274 Lichfield Road, Sutton Coldfield, B74 2UH (the "subject property")

BETWEEN:	Ian Hazel Funerals Limited	Appellant
	and	
	(Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	Thursday 14 November 2024
BEFORE:	Mrs S Sohota, Presiding Senior Member Mrs PA Crowther-Newman, Senior Member
CLERK:	Mrs K Edhouse-Thomas
APPEARANCES:	Mr K Rabbette of Rabbette Chartered Surveyors, representing the appellant Mr H Moxey, representing the respondent

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal panel determined a revised rateable value (RV) of £41,000, with effect from 1 April 2017.

Introduction

3. The appellant's representative had made a challenge against the accuracy of the RV in the 2017 Rating List, by way of a proposal that he served on the valuation officer on 31 October

2022. After considering the proposal and evidence submitted during the challenge period, the valuation officer decided that the proposal had some merit and revised the existing assessment of £66,500 to £54,000 RV with effect from 1 April 2017. A decision notice to this effect was served on the appellant on 8 February 2024. The appellant was still aggrieved, and its representative appealed the valuation officer's decision to the Tribunal on 7 June 2024 on the grounds that the current valuation for the hereditament is not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009. The material day was 1 April 2017, this being the date of the compiled list.

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

Background

5. The subject hereditament comprised of two interlinking buildings. The front section of the building is of brick construction under a pitched tiled roof and was used as office accommodation. It comprised a two storey former residential cottage, which appeared to have been constructed in the 1700s. The modern section of the building was also of brick construction under a pitched and tiled roof. This building was formerly a petrol filling station and was redeveloped in approximately 2013. The ground floor comprised of two storeys of a mixture of office accommodation, a reception, staff amenities, multiple chapels of rest, storage accommodation and a mortuary. The first floor accommodation includes a function room, offices and amenities. There is a glazed two storey link area between the two buildings, which acts as a stairwell. To the rear of the building is a vehicle garage and an internal store. The hereditament entered the Rating List as a funeral home on 1 April 2017.

6. Following the challenge submission, the RV for the hereditament was revised to £54,000 with effect from 1 April 2017. This was based on a revised total net internal area of 771.02m^2, which had been revised from 839.70m^2, a unit rate of £100/m^2 and the inclusion of 10 car parking spaces assessed at £300/space. The valuation officer had conceded an allowance of -5% for layout.

7. The appellant's representative was seeking a further reduction to £39,500. This was calculated using a unit rate of £77.50/m^2 and for the car parking spaces to be implicitly assessed rather than a separate assessment.

8. The valuation officer argued that the revised RV of £54,000 was not unreasonable having regard to other comparable assessment evidence in the Birmingham area.

9. The evidence submission before the panel comprised of all the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' case submissions, photographs of the appeal property and other comparable properties. The appellant made reference in the hearing to the Lands Tribunal judgement in *Williams (VO)* v *Scottish and Newcastle Retail Limited* [2000].

10. In the appellant's proposal, another issue had been raised in relation to the assessment of photovoltaic cells. This matter is to be dealt with separately by the Tribunal at a future hearing.

11. Both representatives appeared before the panel in a dual role of advocate and expert witness. At the hearing, Mr Rabbette indicated that his company was on a success related fee. He did, however, accept that first his 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. 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). The panel, therefore, considered the "expert" evidence and attached such weight to it as it saw fit.

Relevant Law

12. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

13. Paragraph 2 Schedule 6 to the Local Government Finance Act 1988 (as amended) provides the statutory assumptions when valuing hereditaments.

(6) Where the rateable value is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force) the matters mentioned in sub-paragraph (7) below shall be taken to be as they are assumed to be on the material day (but this is subject to paragraph 2ZA).

(6A) For the purposes of sub-paragraph (6) above the material day shall be such day as is determined in accordance with rules prescribed by regulations made by the appropriate national authority.

(7) The matters are-

(a) matters affecting the physical state of the hereditament,
(aa) matters affecting the physical enjoyment of the hereditament.
(b) the mode or category of occupation of the hereditament,
(c) the quantity of minerals or other substances in or extracted from the hereditament,
(cc) the quantity of refuse or waste material which is brought onto and permanently ` deposited on the hereditament,
(d) matters affecting the physical state of the locality in which the hereditament is situated
(e) the use or occupation of other premises situated in the locality of the hereditament.

Discussion

14. In the case under consideration, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141.

15. The starting point for consideration was the actual rent passing on the appeal hereditament. The rent passing was £70,000, with the lease commencing on 25 December 2013 for a period of five years, with no rent free period. The lease had expired on 24 December 2018 and the tenant had remained in occupation “holding over”. The problem with this rent, was that it was between connected parties. The subject hereditament is owned on a freehold basis by Arthur Ian Hazel and Louise Ann Hazel as trustees of The Ian Hazel Limited Retirement Benefit Scheme. The tenant is Ian Hazel Funerals Limited, and Arthur Ian Hazel and Louise Ann Hazel are the directors of this company. As the landlord and tenant were connected parties, the panel placed no weight on the actual rent passing.

16. In terms of rental evidence, the valuation officer provided a schedule of comparable rental evidence for seven properties. However, the panel had concerns in relation to this evidence because it related to offices and premises rather than funeral homes. At the hearing, Mr Moxey stated that funeral homes were assessed in line with office assessments, with no alterations to take into consideration the different mode or category of occupation. The panel was aware that in accordance with Schedule 6 to the Local Government Finance Act 1988, it is important to value non-domestic properties having regard to the mode or category of occupation of the hereditament. On the material day, the hereditament was a funeral home, and on that basis, the panel gave the comparable rental evidence little weight, as no rental evidence had been provided for funeral homes. No comparable rental evidence was presented by the appellant.

17. In terms of comparable assessment evidence, the valuation officer provided details of eight funeral homes in the Birmingham area, within 15.5 miles of the subject hereditament. The applied unit rate ranged from £85.00/m^2 to £116.85/m^2. The panel noted that the unit rate for the Chapel of Rest 59 Reddicap Hill seemed to be an outlier at £116.85/m^2. The unit rates for the remaining assessments ranged from £85/m^2 to £105/m^2. The Chapel of Rest was also the only one of the comparable assessments that had a car parking space assessed at £300/space. One assessment, 211B Birchfield Road had no car parking spaces within the assessment, and the remaining six funeral homes had the car parking spaces assessed at £150/space.

18. The appellant argued that the main driver for a funeral home was location. In times of grief, family members generally turn to a funeral home that is familiar to them or one that they see every day on the way to work or the shops. He further argued that the subject hereditament should be valued in line with other funeral homes with similar prominence and location. He contended that the following factors should be taken into consideration:

- Location. Is the funeral home passed on the way to work/shops
- Proximity to hospitals or nursing homes
- Proximity to a crematorium/cemetery or church

19. The appellant further argued that it was correct to value car parking spaces explicitly where parking was a premium, as the hypothetical landlord would charge additional rent for these spaces, but that in the case of the subject hereditament the car parking spaces should be implicit in the unadjusted rate because parking was not a premium and there was a council car park nearby.

20. Regarding the comparable properties relied on by the valuation officer, the appellant argued that these were in more superior locations. He had provided photographs of these hereditaments and details of their proximity to the facilities mentioned above. In contrast he provided details of seven comparable assessments which were located in Wolverhampton, Stoke-On-Trent, Coventry, Stourbridge and Willenhall, which he considered were more comparable to the subject hereditament. The unadjusted unit rates of these hereditaments ranged from £22.50/m^2 to £77.50/m^2. The appellant considered the funeral home of J.E Hackett & Sons in Coventry to be most similar materially to the subject property. It comprised of an older former residential dwelling which had been converted and extended. The hereditament had an unadjusted rate of £77.50/m^2 with car parking spaces implicitly valued in the unadjusted rate.

21. The panel noted that all but one of the comparable assessments submitted by the valuation officer, which were close to the subject property had car parking spaces listed separately in the assessment, and on that basis, it considered it reasonable to separately assess these spaces for the subject property. However, all these assessments were valued at £150/space, (with the exception of the Chapel of Rest, 59 Reddicap Hill) and on that basis the panel reached the conclusion that the valuation officer's assessment of £300/space was out of line with the other funeral homes in the locality, and that £150/space was more appropriate.

22. The panel considered that comparable assessments closer to the subject property were more useful in determining the unit rate for the subject property as the appellant's comparable assessments were located between 11.4 and 47.20 miles away. However, it accepted the appellant's argument that the comparable assessments relied on by the valuation officer were in better locations, and on that basis decided that the rates between £85/m^2 and £105/m^2 for the valuation officer's comparable assessments were too high for the subject hereditament. It concluded that the appellant had demonstrated that £77.50/m^2 was more reasonable.

Disposal

23. After giving careful consideration to all the evidence presented, the panel was more persuaded by the argument that the RV was unreasonable for the mode or category of occupation and adopted a unit rate of £77.50/m^2 and £150/space for car parking, alongside the -5% allowance for layout.

24. The appeal was allowed in part, as the panel upheld Mr Rabbette's contention for an alteration to the 2017 Rating List. The revised valuation of £41,000 was confirmed as follows:

274 Lichfield Road, Sutton Coldfield, B74 2UH (01/04/2017)									
Rateable Value									
Floor	**Description**	**Area**		**Unadjusted Rate**		**Rel.**	**Adjusted Rate**		**Value**
Ground	Office	61.42	m²	£77.50	per m²	1.000	£77.50	per m²	£4,760.05
Ground	Office - NNL	35.98	m²	£77.50	per m²	0.950	£73.63	per m²	£2,649.03
Ground	Staff/Mess Room	19.52	m²	£77.50	per m²	1.000	£77.50	per m²	£1,512.80
Ground	Internal Storage - Unheated	56.76	m²	£77.50	per m²	0.665	£51.54	per m²	£2,925.27
Ground	Production Area	67.64	m²	£77.50	per m²	0.700	£54.25	per m²	£3,669.47
Ground	Garage - Unheated	217.64	m²	£77.50	per m²	0.095	£7.36	per m²	£1,602.37
Ground	Office	34.01	m²	£77.50	per m²	1.000	£77.50	per m²	£2,635.78
Ground	Office	10.89	m²	£77.50	per m²	1.000	£77.50	per m²	£843.98
Ground	Mess/Staff Room	5.86	m²	£77.50	per m²	1.000	£77.50	per m²	£454.15
First	Office	62.03	m²	£77.50	per m²	1.000	£77.50	per m²	£4,807.33
First	Office	165.53	m²	£77.50	per m²	1.000	£77.50	per m²	£12,828.58
First	Mess/Staff Room	7.38	m²	£77.50	per m²	1.000	£77.50	per m²	£571.95
Mezzanine	Internal Storage - Unheated	26.36	m²	£77.50	per m²	0.700	£54.25	per m²	£1,430.03
Subtotal		**771.02**	**m²**						**£40,690.77**
Additional Items									
Plant & Machinery									£1,045.00
Car Parking		10	spaces				£150.00	/space	£1,500.00
End Allocances									
-5% for Layout									-£2,161.79
Total									**£41,073.98**
Rateable Value									**£41,000.00**

25. 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 subject property's entry to £41,000 Rateable Value, with effect from 1 April 2017.

26. A refund of the paid fee will now be arranged provided there is no review sought of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 4 December 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.