VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; factory and premises; accuracy of compiled list entry; comparable properties; end allowance sought for layout; appeal dismissed.

APPEAL NUMBER: CHG100888539

BETWEEN:	E.G.L Homecare Limited and Ms. J. Moore (Valuation Officer)	Appellant Respondent

RE: 1-7 Campfield Road, Shoeburyness, Southend-on-Sea, SS3 9BX

PANEL: Ms R Sharma (Presiding Senior Member)
Mr J Thomas (Senior Member)

CLERK: Mrs K Edhouse-Thomas IRRV (Hons)

SITTING ON: 14 March 2024 (Remote hearing number 1)

APPEARANCES: Mr M Clayton (appellant's representative)
Mr J Kent (Valuation Officer's representative)

Summary of decision

1. The appeal was dismissed. The panel determined that the assessment was not unreasonable at £395,000 Rateable Value (RV) with effect from 1 April 2017.

Introduction

2. 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 was served on the valuation officer on 14 December 2022. After considering the proposal and evidence submitted during the challenge period, the valuation officer decided that the proposal was not well founded and refused to alter the

existing assessment of £395,000 RV. A decision notice to that effect was served on the appellant on 14 August 2023 which was then appealed the valuation officer's decision to the tribunal on 6 October 2023, on the grounds that the current valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. The material day was 1 April 2017, this being the date of the compiled list.

3. In the proposal, the appellant's representative had sought a reduction to £342,500 RV, however at the hearing he sought a reduction to £375,000 RV.

4. Both representatives appeared before the panel in a dual capacity as both Advocate and Expert Witness. At the hearing Mr Clayton indicated that he 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 as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 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.

5. This hearing was held remotely via Microsoft Teams. No technical issue occurred during the hearing.

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

Issue

7. Initially there were two issues in dispute. The first being the unit price per m^2 to be applied in the valuation. The second issue was whether there should be a 5% layout allowance. However, prior to the hearing, the appellant's representative informed the tribunal that he no longer wished to contend the first issue. The only matter for the panel was the layout allowance.

Evidence and submissions

8. 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' case submissions, layout plan and photographs of the appeal property and other comparable properties.

9. The parties referred to the judgement in *Lotus and Delta Ltd v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141.

Decision and reasons

10. 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).

11. The Lands Tribunal decision in *Lotus and Delta* provided guidance on the weight to be attached to rental and assessment evidence. The rent was considered the starting point but rents on similar properties were also taken into account. The assessments on other comparable properties were also relevant. In light of all the evidence, a decision on the value to adopt could be made.

12. The panel noted that there was no actual rent passing on the appeal property as it was occupied by the freehold owner.

13. The appeal property was a factory and premises constructed in 1985. It had an agreed area of 14,079m^2 with a main space area of 13,722m^2.

14. Mr Clayton, the appellant's representative argued that the property comprised of several individual warehouses with numerous internal dividing walls which resulted in fragmentation, restricting its usability. During the hearing the panel wanted to know more about the perceived disability of the appeal property. Mr Clayton explained that there were steel supports throughout the individual bays to support the roof structure, which restricted the usability of the bays and moveability of forklifts between the units.

15. The valuation officer argued that the steel supports were a standard method of building in a structure of this size, with the building measuring over 100 metres across. He stated that he did not know of any other buildings of this size with an open space across this span, and that in his opinion, a property with an open space would be the outlier, not the norm. There was likely to be a higher value for properties that did not have them. He further argued that an internal inspection had been undertaken at the property and it had been identified that the occupiers had laid out the property as they wanted it, using internal walls where the steel supports were, to delineate where forklifts can go, and forklift free areas.

16. Mr Kent, the valuation officer's representative gave the example of the premises next door at 1-5 Campfield Road. This property was rated at the slightly higher price of £30 per m^2. The appeal property was rated at £29 per m^2. The panel noted that this supported the valuation officer's argument that the appeal assessment was in line with the assessment at 1-5 Campfield

Road, and no end allowance had been made there. The panel was satisfied that it was the norm to have the structural pillars for units of this size.

17. The appellant's representative provided a table of comparable evidence across Essex. One of these properties was described as 'laboratories and premises', with the remainder being described as 'factory and premises'. He had selected six hereditaments to show that they benefited from layout allowances. The difficulty the panel had with the schedule was that it wanted to know more about the layout disabilities on those properties and how they compared with the appeal property. When asked, the appellant's representative was unable to provide any further information. He had not seen any of the other premises, nor did he have any information on the layout problems and whether they were similar to the appeal property. The panel was not persuaded that this evidence demonstrated that an end allowance was warranted at the appeal property.

18. After careful consideration of all the evidence, the panel was not satisfied that there was sufficient evidence to support any reduction. The fact that other allowances were given for other hereditaments did not automatically mean that an allowance could be made in respect of the appeal property. In the absence of any evidence to the contrary, the panel was satisfied with the respondent's position that it was the norm that no layout allowances should be allowed.

19. In view of the foregoing, the appeal was dismissed.

Date: 5 April 2024

Appeal number: CHG100888539

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.