THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal; Appellant seeking a 10% allowance for the disadvantage of a divided/split layout; Appeal allowed in part*.*

APPEAL NUMBER: CHG101049426

BETWEEN:	Challenger Solutions Limited	Appellant
	and	
	Joanne Moore (The Valuation Officer)	Respondent

RE: 79 / 83 / 85 Haltwhistle Road, South Woodham Ferrers, Chelmsford CM3 5ZA

PANEL: Mr S Wood (Senior Member) and Ms S Eze

CLERK: Mr A Johnson IRRV (Tech)

HEARING: 22 March 2024
(Conducted remotely using Microsoft Teams)

APPEARANCES: Mr M Clayton from Altus Group (representing the Appellant)
Mr L Stevens (representing the Respondent)

DECISION AND STATEMENT OF REASONS

Regulations 36 and 37 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

Summary of decision

1. This appeal was allowed in part.

    i. the storage land associated with the assessment was removed; and
    ii. an allowance of 2.5% was applied to reflect the disabilities at the appeal property.

2. The rateable value (RV) was therefore reduced to £34,500 with effect from 1 April 2017.

Introduction

3. This decision notice is not a verbatim or contemporaneous record of the proceedings.

4. This appeal had been brought pursuant to regulation 13A of the Non-Domestic (Alterations of Lists and Appeals) (England) Regulations 2009.

5. The subject property entered the 2017 non-domestic rating list with effect from 1 April 2017. It was described as a 'workshop and premises' measuring 1,300.24m^2, made up of buildings totalling 841.34m^2 and storage land totalling 458.9m^2. It was located in South Woodham Ferrers, Chelmsford CM3 5ZA, forming part of the Redhills Industrial Estate. It was described as being of steel frame construction with cavity brick and block infill under a pitched roof. The Appellant had sought an alteration of the 2017 non-domestic rating list from 1 April 2017 on two grounds. Firstly, that an allowance of 10% should be made to reflect the appeal property's divided nature/poor layout and, secondly, that the storage land element of the assessment should be removed. If both grounds were allowed then the RV would be reduced from £37,250 to £31,750 (and not the £32,000 which had been stated within the Appellant's written submission which, Mr Clayton explained, was a typographical error). The Valuation Officer had decided that the Challenge was not well-founded and the Appellant subsequently submitted an appeal to this Tribunal.

6. The representatives of both parties stated that they were appearing in the dual roles of advocates and expert witnesses. Mr Clayton declared that he was representing the Appellant on a contingency fee basis and both Mr Clayton and Mr Stevens acknowledged that when presenting evidence as expert witnesses, their duty was to the Tribunal regardless of whether or not their evidence supported their respective arguments.

7. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on the above basis as the appeal was not considered to be 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 concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

8. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

Issues

9. There were two issues before the panel, firstly whether the storage land included within the assessment should be removed and, secondly, whether an allowance of 10% should be made to reflect disabilities at the appeal property. Factual matters (such as the floor areas of the buildings) were not in dispute.

Evidence and submissions

10. In support of his contention that the storage land should be removed from the assessment, Mr Clayton explained that the land between three separate buildings (which was the majority of the assessment) was actually circulation space which facilitated access, loading and unloading. Mr Clayton also referred the panel to an aerial photograph which, he asserted, provided evidence that no storage land existed.

11. In response, Mr Stevens argued that there was storage land at the site which was in the exclusive occupation of the occupier and could be used as they wished. Therefore, he submitted, it should be valued accordingly.

12. In support of his contention that an allowance of 10% should be allowed, Mr Clayton submitted that accessing one of the three buildings from another could not be done internally as there was no such connectivity. In support of this, Mr Clayton submitted details of four other assessments where allowances had been made which, in his opinion, supported a 10% allowance for the subject property.

13. In response, Mr Stevens argued that no allowance was warranted because the occupier was able to pass from one building to another over land that was in exclusive occupation of the Appellant. Mr Stevens argued that the assessments put forward by Mr Clayton for comparison purposes did not reflect the circumstances at the subject property and, therefore, they did not support any allowance being made.

Decision and reasons

14. After due consideration, the panel accepted the evidence and submissions from Mr Clayton that the areas described as storage land could not truly be described as such. Whilst a varying degree of transient small scale storage would inevitably occur from time to time, the areas were found to provide circulation space which enabled movement around the site in order to allow access to each of the buildings as required. In view of this, the panel determined that the land associated with the assessment should be removed.

15. Turning to the allowance sought by the Appellant, the panel found that the evidence before it did not support 10%. When considering the comparable properties, the panel observed that 78 Maldon Road had benefited from a 5% allowance because it was a divided unit with varying floor levels. As such, this was not found to be comparable with the circumstances at the subject property. The properties at 56 Maldon Road, Eves Corner and 31/35 Cutlers Road were found to be more suitable comparators because the disabilities encountered at each of these properties related to access over land. However, 56 Maldon Road and Eves Corner had each received allowances of 10% and 5% respectively to reflect the fact they faced open and shared yards whilst the land used to access the subject property was in the Appellant's exclusive use (the panel noted that, as far as Eves Corner was concerned, Mr Stevens believed the yard was shared but he was unable to confirm this with complete certainty and, in the absence of evidence to the contrary from Mr

Clayton, the panel considered it reasonable to assume that the yard was shared). The property at 31/35 Cutlers Road, like the subject property, was located in Woodham Ferrers and it had received a 5% allowance to reflect two main buildings which were separated by a shared central yard. This, in the panel's opinion, made 31/35 the best of the comparable properties. However, the disability experienced at the subject property was lessened by the fact the Appellant was in exclusive occupation of the access land between the buildings. In view of this, the negative impact upon the rental bid of a hypothetical tenant is lessened. Therefore, the panel concluded that an allowance of 2.5% was reasonable.

16. This appeal was therefore allowed in part and the RV of the subject property was reduced to £34,500 with effect from 1 April 2017, as set out below:

	Area M^2	**£/M^2**	**Value**
Ground floor workshop	233.74	45	10,518
Ground floor external storage	14.21	33.75	480
Ground floor workshop	144.82	45	6,517
Ground floor office	16.14	54	872
Ground floor kitchen	1.44	54	78
First floor office	80.59	54	4,352
Ground floor area under supported floor	174.5	29.95	5,226
Mezzanine floor store	95.2	21.39	2,036
Mezzanine floor office	80.7	47.06	3,798
	841.34		**33,876**
plus: Car parking spaces (10)			1,500
			35,376
less: 2.5% allowance			847
			34,529
		RV SAY:	**34,500**

Order

17. In accordance with regulations 38(4) and 38(9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, this Tribunal orders the Valuation Officer to alter the valuation list within two weeks of the date of this order to show the entry in the rating list for the subject property to £34,500 RV with effect from 1 April 2017.

Refund of appeal fee

18. The Appellant is entitled to a refund of the appeal fee in accordance with regulation 13E of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. This will be refunded as soon as possible.

Date: 17 April 2024 **Appeal number:** CHG101049426

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.