VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Chemical works and premises; end allowance for disabilities; appeal dismissed.

APPEAL NUMBER:	CHG101050350
RE:	33 Jeffreys Road, Enfield, London EN3 7PW (the “appeal property”)

BETWEEN:	Johnson Matthey Plc	Appellant
	and	
	Lucy Dyer MRICS (Valuation Officer)	Respondent

SITTING:	*Remotely using Microsoft Teams*
ON:	29 January 2025 10:00
BEFORE:	Mrs M Chaggar, Presiding Senior Member Mrs AE Fielder, Senior Member
CLERK:	Mr R Gath IRRV(Hons)
APPEARANCES:	Mr M Webb for Colliers (Appellant’s representative) Mr J Allen (Respondent’s representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal panel concluded that 5% allowance for fragmentation was sufficient and the panel was not persuaded that the resultant rateable value was unreasonable.

Introduction

3. 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 he served on the Valuation Officer (VO) on 14 April 2023. After considering the proposal and evidence submitted during the challenge

period, the VO decided that the proposal was well founded and altered the existing assessment to £1,200,000 RV effective from 1 April 2017. A decision notice to this effect was served on the Appellant on 29 April 2024 and his representatives then appealed the VO's decision to the Tribunal on 29 August 2024, on the grounds that the current valuation for the hereditament was not reasonable, under regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

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

Background

5. The appeal property was a Chemical works and premises. Some of the appeal property dates back to the 1940s and the site had been altered over the years since. The Appellant was seeking a revised RV of £1,015,000 due to an increase in the allowance for poor layout. There is currently a 5% allowance. Mr Webb was seeking an allowance of 20%.

6. As Mr Webb appeared on behalf of the Appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC).

7. He declared that he was instructed under a fixed fee. However, Mr Webb confirmed that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this, as well as the requirements of his professional body regardless of whether or not the evidence supported the client's case.

8. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).

9. Mr Allen confirmed that he was representing the VO as advocate and expert witness.

10. The only issue in dispute before the panel was the amount of end allowance due to fragmentation that should be applied to assessment for the appeal property.

11. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties comparable assessments, skeleton arguments and a photograph of the appeal property.

Relevant Law

12. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is

estimated the hereditament might reasonably be expected to let from year to year on these three assumptions –

a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic; and

c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above".

Discussion

13. As the VO had already granted a 5% allowance for poor layout there was no dispute about whether or not the appeal property should be granted an end allowance on this ground. The task for the panel was to determine if a larger allowance should be granted.

14. Mr Webb argued that the appeal property consisted of 18 separate buildings which now form a "L" shape site. As the buildings were spread over a large area this resulted in inefficiencies, increased maintenance costs and results in spare capacity/usage.

15. The panel understood Mr Webb's argument that over time the assessment has expanded from its original buildings which were constructed in the 1940s and that allowances can be reviewed. However, the panel applied significant weight on Mr Webb's inability to satisfactorily demonstrate what has changed in the site since the 5% allowance had originally been granted.

16. Although Mr Webb had referred to a number of sites where a greater allowance than 5% had been granted, such as Units 1 and 2 Acorn House, Dagenham; DAR Lighting, Banbury and John Guest, Uxbridge, the panel considered that there were drawbacks to these properties as they were described as either Warehouses and Premises or Factory and Premises and had not been valued by the contractors basis.

17. The panel applied significant weight to Mr Allen's argument that some of the buildings were specially built away from the main factory buildings due to the nature of the work which included the use of hazardous chemicals.

18. In response to Mr Webb's argument, Mr Allen had provided examples of other similar industrial properties that had been valued on the contractors basis. He provided various reasons for these sites being granted a higher allowance such as being on a split site, a site interspersed with other occupiers or having shared access, which further supported the VO's argument that a higher allowance was not justified.

19. Given the above, the panel was not persuaded by Mr Webb's comparable properties as they had been valued by reference to rents rather than the contractors method as the appeal property had been.

20. The panel also applied significant weight to Mr Allen's argument that during the first stage in the contractors method is to allow for fragmentation and at stage two one adjusts for obsolescence. In effect, by seeking a higher end allowance, this is double counting the adjustments made at the first two stages.

21. The panel applied significant weight to the VO's argument that a 5% allowance had been granted in previous rating lists following discussions between the VO and the Appellant's representative. Although the panel was aware that the representative was not Colliers, no evidence had been presented to the panel to prove that the layout of the appeal property had changed from the previous rating list.

Disposal

22. In view of the above findings and conclusions, no evidence had been presented to the panel to prove that the layout of the appeal property had changed from previous rating lists. The panel was also not persuaded by Mr Webb's comparable properties as they were valued differently and very little evidence had been presented by Mr Webb to prove that the appeal property should be granted a higher allowance. The panel dismissed the appeal.

Date issued to parties: 21 February 2025

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.
