VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; : valuation of land, end allowances for access and fragmentation and warehouse price per m^2 in dispute; comparable properties; appeal allowed in part.

APPEAL NUMBER:	CHG101055109
RE:	Units 1 & 2 Acorn House, Coppen Road,Dagenham,RM8 1HJ (the "subject property")

BETWEEN:	Nick Brewin	Appellant
	and	
	Andrew Mouland (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	01 May 2024
BEFORE:	Mrs N Crawshaw, Presiding Senior Member Mr K Everett, Senior Member
CLERK:	Mrs J Routledge IRRV(Tech)
APPEARANCES:	Mr M Webb of Colliers International representing the appellant. Mr O Ogbesoyen representing the Valuation Officer.

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel found that the base rate for the warehouse unit two was excessive and that the allowances for access and fragmentation should be increased taking into account the comparable evidence provided.

Introduction

3. This is a 2017 rating list appeal. The subject property had been entered in the 2017 rating list as ‘warehouse and premises’ at a RV of £98,500 with effect from 1 April 2017.

4. The challenge proposal was submitted by Colliers International on behalf of the appellant and was received by the Valuation Officer on 24 April 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £73,500 was proposed with effect from 1 April 2017, based upon:

   - End allowances increasing to 10% for access, and 7.5% for split site/fragmentation.
   - Removal of land for access/circulation.
   - The assessment of the ground floor warehouse unit 2 was excessive.

5. The Valuation Officer issued a challenge case decision notice on 24 August 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by Colliers International on behalf of the appellant, and received by the Tribunal on 19 December 2023.

7. Mr Webb appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), his declaration of truth included a statement that he was not instructed under any conditional fee arrangement. Mr Webb declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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 appeal property was a warehouse and premises the present valuation of £98,500 RV was based upon a total area of 2,223.52 per m^2 for buildings at a base rate of £33.00 per m^2 and 287.82.m^2 of land at £10 per m^2.

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

Background

10. 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.

11. 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.

Relevant Law

12. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.6 to the Local Government Finance Act 1988, which provides:

"(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local nondomestic 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.

(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. The evidence submitted for consideration of this appeal consisted of the VO's challenge decision and challenge update, the agent's rebuttal to the VO's initial response, photographs and location maps of the appeal property, photographs and location maps of properties submitted as comparable to the subject property, and the agent's written appeal statement.

14. Mr Webb argued that the assessment of value on the new warehouse area was excessive. The subject property should be value as one unit with the newer edition being included in the base rate. It was not separately leased, it is irregular in shape and with lower eaves height which offset the advantages of the extra space and therefore would not attract a higher rental bid.

15. The land was necessary for access and the site density was below the average for industrial sites and as such there should be no value given to the excess land.

16. The warehouse was split into three areas with restricted access between the areas such that goods could not be moved using forklift trucks between area 2 and 3 which has a significant impact on the efficiency of the work and would affect any rental bid as the restrictions would be taken into account by the hypothetical tenant. He provided examples where there were two areas with access issues that attracted a 5% allowance with each further sectioned area of a hereditament attracting a further 2.5% which is why 7.5% was being sought.

17. The access to the site was poor with no access to the rear where the loading bays were situated and large lorries are unable to access the site. Goods had to be unloaded and

transported down the side of the building by forklift trucks. He provided evidence of a comparable property within two miles with slightly better access which had been granted a 7.5% allowance.

18. Mr Ogbesoyen went into great detail on how the valuation of each part of the subject property was reached, he explained that the new area would require less maintenance and would have greater value and stated there had been no evidence that the higher value on the new area was excessive.

19. The Tribunal panel appreciated that a new extension may require less maintenance and be built to a better standard, however this was a narrow area only 5.25 metres wide which would be unlikely to attract a higher rate if let separately to the hypothetical tenant due to its restricted size and eaves height. The Tribunal panel concluded that the base rate of £33 per m^2 should be applied to the Warehouse unit 2.

20. Mr Ogbeyson explained that of the land area 1,370m^2 was disregarded for access and the remaining 287.8m^2 was being used for storage and therefore had a value. He argued that the comparable agreements referred to where land had been removed were on a case by case basis dependant on the use of the land.

21. The panel noted from the photographs that the appellant’s vans were parked in the area and there were also items stored against the perimeter fence therefore it concluded the land was in use and had a value to the tenant as storage and confirmed that the 287.8m^2 should be included in the assessment.

22. With regard to the allowance for fragmentation, Mr Ogbeyson argued it was not a simple mathematical formula to be applied, the Tribunal panel should consider how much the internal restrictions had an impact on the business. The more restricted the internal circulation the higher the allowance, if there was no internal access between two area then the allowance would be greater, in this case there was access between each unit and therefore the 5% was reasonable.

23. The tribunal panel had regard to the plans provided and found there was considerable restrictions caused by the access between the units as there was only one access between warehouse one and two , the access to the third area of the warehouse from warehouse two was slightly better but given the narrowness of the third area this did not mitigate the restrictions. The Tribunal panel found that a 7.5 % allowance to reflect the disadvantages caused by the restricted access between the warehouses was reasonable.

24. In defence of the 5% access allowance it was argued that the 7.5% allowed for Mr Webb’s comparable took into account that this property was affected by the nearby football club as when games were being played there was considerable traffic and cars parking in the area restricting access.

25. The Tribunal panel gave this argument no weight, the photographs clearly showed the restricted access was similar to the subject property. The Tribunal panel was also aware that football matches generally take place outside working hours which would have little to no effect on the access to the comparable property. It also noted that the photograph of the subject property showed considerable traffic and the comparable property photographs did

not, there was no information regarding when the photographs were taken. The Tribunal panel found that the access allowance for the subject property should be 7.5% as the access was restricted in a similar manner to the comparable property.

Disposal

26. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the appeal should be allowed in part, the base rate for the warehouse unit 2 should be £33.00 per m^2 an allowance of 7.5% for restricted access and a further 7.5% for fragmentation should be applied.

Floor	**Description**	**Area m^2**	**£ per m^2**	**Value (£)**
Ground	Production area	74	32.18	2,381
Ground	Warehouse-Clear Height	773.32	32.18	24,885
Ground	Office	47.38	38.61	1,829
Ground	Office	6.89	35.39	244
Ground	Kitchen	35.10	38.61	1,355
First	Office	86.58	39.60	3,429
Ground	Warehouse	686.67	33.00	22,660
Ground	Kitchen	11.15	39.60	442
Ground	Area under supported floor	196.39	23.10	4,537
First	Office	216.24	39.60	8,563
Mezzanine	Internal storage	196.39	16.50	3,240
Ground	Warehouse	377.62	33.00	12,461.46
ADDITIONAL ITEMS				
	Hard surfaced, unfenced land	287.80	10.00	2,878
	Car parking	12	280.00	3,360
			Valuation sub-total	**92,264.46**
Adjustments				
	Access 7.5%			6,919.83
	Divided/split unit			6,919.83
				78,424.80

This is rounded down to £78,000.

Order

27. 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 alter the entries in the rating list to £78,000 with effect from 1 April 2017.

28. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date issued to parties: 16 May 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.