VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Warehouse and Premises; end allowance for split/divided unit in dispute; Local Government Finance Act 1988; comparable properties; appeal dismissed.

APPEAL NUMBER:	CHG101067745
RE:	Units F1/F2 Beckingham Business Park, Beckingham Street, Maldon, Essex, CM9 8LH (the "appeal property")

BETWEEN:	D W Clark & Sons Ltd	Appellant
	and	
	Joanne Moore (Valuation Officer)	Respondent

SITTING:	Remotely using Microsoft Teams
ON:	Monday 17 March 2025
BEFORE:	Mr P Blythe-Bartram, Presiding Senior Member Miss R Punia, Member
CLERK:	Mrs L Horne
APPEARANCES:	Mr M Clayton from Ryan (previously Altus Group) representing the appellant Ms M Brigden representing the Valuation Officer

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The panel confirmed the rateable value (RV) of the appeal property at £123,000 with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal. Units F1/F2 Beckingham Business Park, Beckingham Street, Maldon, Essex, CM9 8LH (the appeal property) had been entered in the 2017 rating list as 'warehouse and premises' at an RV of £123,000 with effect from 1 April 2017.

3. The challenge proposal was submitted by Altus Group on behalf of D W Clark & Sons Ltd, and was received by the Valuation Officer on 26 May 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 £117,000 was proposed with effect from 1 April 2017, based upon the addition of a 5% end allowance for a split/divided unit.

4. The Valuation Officer issued a challenge case decision notice on 29 January 2024, 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.

5. 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 Altus Group on behalf of the appellant, and received by the Tribunal on 21 February 2024.

6. Mr Clayton 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), he declared that he was instructed under a contingency based fee. He confirmed 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.

7. 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. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Relevant Law

9. Rateable value is determined in accordance with paragraph 2(1) of Schedule 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 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.

   (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.

10. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

11. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

12. The appeal property comprises two adjoining purpose-built units, located on Beckingham Business Park. There is no internal access between the units and the total floor area is agreed at 6,383.65m^2.

13. On behalf of the appellant, Mr Clayton submitted that as there was no internal opening between the two units, this resulted in a divided unit, where the layout hindered its useability to the tenant, when compared to other open-plan assessments in the scheme. He therefore considered that this issue should be reflected in an end allowance, as had been given elsewhere in the locality:

    - Ben Rigby Game Ltd at Atherton Lodge, Fambridge, Maldon, CM9 6NL – 5% end allowance for split site.
    - Building 04 (Vacant part), Hall Road, Heybridge, Maldon, CM9 4LA – 5% end allowance for divided or split unit.
    - ICS Triplex Plc, Hall Road, Heybridge, Maldon, CM9 4LA – 5% end allowance for divided or split unit.
    - Units 11/12 Blackwater Trading Estate, The Causeway, Maldon, CM9 4GG – 6% end allowance for layout and access.
    - Riverside House, Hall Road, Heybridge, Maldon, CM9 4LA – 5% end allowance for layout.

14. On behalf of the Valuation Officer, Ms Brigden disputed the relevance of Mr Clayton’s comparable properties, as they were not valued within the same scheme and were some distance from the appeal property. She provided further information in respect of the end allowances applied, to highlight why they were not comparable with the appeal property; for example, the end allowances applied to Ben Rigby Game Ltd at Atherton Lodge and Riverside House, Hall Road, reflected that the properties were divided across several separate buildings.

15. Ms Brigden submitted that comparable assessments from within the same scheme, and particularly those within Beckingham Business Park, demonstrated that there was no end allowance warranted for a divided/split site, as it was already reflected in the tone price:

    - Units 1a/1b Beckingham Business Park, Beckingham Street, CM9 8LZ – merged in 2015 and there had been no end allowance for a divided/split unit in either the 2010 or 2017 lists.
    - Unit F4/F5 Beckingham Street, CM9 8LZ – merged in 1999, and no allowance in the current or previous lists.
    - Unit K1/K4 Beckingham Business Park, Beckingham Street, CM9 8LQ – merged in 2003, and no allowance in the current or previous lists.
    - Units 7A & 7G, Beckingham Street, CM9 8LQ – merged in 2017, and no allowance in the current list.

- Units H1-H3, Beckingham Business Park, Beckingham Street, CM9 8LQ – merged from 2009 to 2019, no allowance applied.

16. In consideration of the fact that the subject units had been held freehold for over 20 years with no alterations made to the access, Ms Brigden contended that this supported that the layout of the units does not impact the business or the useability of the building.

17. The panel noted that there was a dispute between the parties as to whether the wall dividing the units was structural or non-structural. Mr Clayton confirmed that he had not inspected the appeal property, but he believed that it was a structural wall. While Ms Brigden had not personally inspected the appeal property, according to the Valuation Officer's records, this was a non-structural, single skin wall. Based upon the fact that the appeal property had been inspected by the Valuation Officer, the panel was inclined to accept that the wall was non-structural.

18. In consideration of the parties' evidence and submissions, the panel decided to attach most weight to the comparable assessments presented by the Valuation Officer. They were drawn from similar merged units within the same valuation scheme in the subject business park and close locality, and they supported the Valuation Officer's contention that an end allowance of 5% for the appeal property was not warranted.

19. In contrast, Mr Clayton's comparable assessments were not drawn from the same location or valuation scheme. In addition to there being different physical characteristics which may support end allowances for those properties, it was also the case that the addition of an end allowance may be supported by rental evidence within that particular location.

Disposal

20. In view of the above findings, the panel concluded that it had not been demonstrated that the present RV of £123,000 was unreasonable, and therefore the appeal was dismissed.

Date issued to parties: 28 March 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.
