VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; factory and premises; proposed allowances for lack of natural light in the kitchen/canteen area and for major stanchions within the building; rental evidence; comparable properties; appeal dismissed.

APPEAL NUMBER: CHG101068974

BETWEEN:	CCA Occasions Limited	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent

RE: CCA Occasions Limited, 91 Clydesdale Place, Leyland, Lancashire PR26 7QS

PANEL: Mr M Smith (Chairman)

Mrs F Cortese

CLERK: Mrs S Morgan

SITTING ON: Tuesday 9 April 2023 (Remote hearing number 2)

APPEARANCES: Mr K Batty – Ken Batty Chartered Surveyors Appellant's representative.

Ms J Willis for the respondent Valuation Officer

Summary of decision

1. The appeal was dismissed. The panel made no change to the appeal property's existing assessment of £205,000 rateable value (RV), effective from 1 April 2021.

Introduction

2. This appeal was brought in respect of CCA Occasions Limited, 91 Clydesdale Place, Leyland, Lancashire PR26 7QS (the appeal property). The appeal property is a 1980's semi-detached warehouse/industrial unit which had been extended over the years and was now made up of three units. It is built of portal steel frame construction with profile metal sheeting with a profile steel roof. It has a total floor area of 6,622.69m^2. The ground floors are solid and the upper floors timber and beam suspended. The premises are situated on Clydesdale Place, Moss Side Industrial Estate in the Moss Side district of Leyland.

3. The challenge submission was received on 1 June 2023. The grounds for the challenge disputed the accuracy of the RV in the Rating List on 1 April 2021. The original assessment was £207,000 RV. The appellant's representative sought a revised assessment of £188,000 RV. Following a joint inspection on 26 June 2023 the measurements were corrected and the valuation was amended. It was noted during the inspection that some plant and machinery (air compressor and CCTV cameras) had not been included. These were added into the revised valuation of £205,000 RV with effect from 1 April 2021. This appeal is against the decision notice to amend the assessment.

4. Mr Batty 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), Mr Batty was aware that in giving expert evidence his responsibility was to the VTE. Furthermore, he stated that his firm was on a conditional contract for this appeal and that he was being paid for the hearing but not on a performance related fee.

5. Ms Willis also appeared as advocate and expert witness on behalf of the Valuation Officer.

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

Issue

7. The issues in dispute were a proposed 5% end allowance for an internally fragmented layout of the appeal property and a further 2.5% end allowance sought by Mr Batty for the presence of stanchions throughout the buildings.

8. Reference was also made by the appellant's representative to line entries in a valuation. A 2.5% reduction was being sought for there being no natural light in the kitchen/canteen area, the line entry for part of the production area (which at the hearing he stated was affected by air conditioning) and the first-floor area that was being used for storage rather than offices.

9. There were no issues with regards to the floor areas.

10. At the hearing, the appellant's representative also challenged the price adopted on the car parking, referring to an arithmetical error in the respondent's valuation.

11. The respondent's representative stated that there was already a 2.5% allowance made by way of survey adjustments in 2011. She contended that no other allowances were justified.

Evidence and submissions

12. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during the challenge process which included a schedule of comparable rental evidence, comparable property evidence, location plans, photographs, their skeleton arguments, non-domestic regulations and case law.

Relevant Law:

- *The Occupier v Stauder (VO)* 232017696805/125N10 – "The granting of end allowances will depend on the particular facts affecting any property. It is unreasonable to assume that, simply because one property has an assessment incorporating an end allowance, that another should automatically be entitled to the same allowance".

- *J Rosenthal & Son Ltd v Rushall* (VO) 237210269817/126N05 "It was therefore, incumbent on the agent to show the justification for the allowances on his comparables was mirrored by the circumstances at the appeal property".

- *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

13. The term 'rateable value' is defined in paragraph 2(1), 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 –
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> a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
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> 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;
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> 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".

19. 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).

20. 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 2021.

Decision and reasons

14. Reference was made to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

15. The panel noted that the rental evidence on the appeal property was initially for 10 years beginning in January 2008 with five-year rent reviews. In June 2012 the rent passing was £150,000 pa and there was a new rent in 2023 at £334,000 pa. No further details were provided. The 2012 rent analysed to £22.31/m^2 against a unit price of £31/m^2. There was no challenge to the unit price.

16. The panel then considered the several comparable assessments provided by the Valuation Officer's representative which showed various end allowances. The panel took into account *The Occupier v Stauder* (VO) referred to above. As little was known about the allowances given in the comparable properties, the panel attached little weight to them.

17. During the hearing, the panel noted that the appellant's representative referred to certain line entries in the subject property's assessment which he contended were incorrect. These were in relation to part of the ground floor production area, the canteen/kitchen area, the first-floor space and the area used for car parking. He argued that the second line entry in his valuation for part of the production area contained air conditioning when valuation scheme 417444 (applicable to the subject property) stated there was no addition for air conditioning. There were no objections to the photographs of the kitchen/canteen area being submitted where the appellant's representative sought 2.5% for no natural light. The photographs of the first floor showed the area was still the standard of office accommodation although it was being used for storage purposes. He added that the value applied to the car parking area showed an arithmetical error.

18. The respondent's representative contended that the subject property was valued in line with other industrial units in the locality. She believed that there being no natural light in the canteen/kitchen area would not affect the hypothetical tenant's rental bid. The stanchions had already been reflected in the valuation and vacant and to let the first floor remained as office accommodation. In relation to the value of the car park area, this had been calculated at

£2.40/m^2 in line with other surfaced open areas in the locality even though the assessment incorrectly showed £2/m^2. She added that no further allowances were warranted for layout.

19. Some leeway was given in the raising of these new arguments by the appellant's representative as the respondent's representative seemed amenable; the respondent's representative gave the tribunal the impression she was going to alter her valuation after hearing the appellant's representative's comments and the proceedings were briefly adjourned. On reconvening, the respondent's representative had not made any adjustments to the valuation.

20. The panel had concerns that the appellant's representative had not produced any substantive evidence to support his case. His five-page evidence bundle containing a title page, contents page; a page with two valuations, a page with two short paragraphs on the issues and his final page being a statement of truth. With the exception of the photographs submitted late, there was no further evidence to support his assertions or his proposed reduction to various items within the valuation. The panel therefore rejected the appellant's representative's arguments. In any event, the panel was mindful that the appellant's representative should have resolved factual issues at the "check" stage and all of his arguments and evidence needed to be aired with the respondent at the "challenge" stage.

21. The panel was also disappointed with the Valuation Officer's representative in her role as "expert". She had provided a schedule of comparable properties but when asked she could not explain the allowances which had been given for those properties which ranged from 2.5% to 10% for various reasons.

22. Having examined the evidence presented by the parties, the panel did not consider that the appellant's representative had demonstrated that any end allowances were applicable to the subject property. The panel made the following findings.

    (a) Although the appellant's representative had adjusted the value of the production area from £33.25/m^2 to £30.23/m^2 in his proposed valuation, the argument over air conditioning in this area was not contained in the case submission.

    (b) It was not unusual for canteens to have no natural light. The panel recognised the appellant's representative was an experienced valuer, but he was unable to support his proposed reduction with examples or comparable properties.

    (c) While the first-floor offices were not used as offices, the photographic evidence showed that they still retained the appearance and quality of offices.

    (d) The respondent's representative was of the view that stanchions in 1980s industrial units were the norm. The appellant's representative had not given any examples of other properties where allowances for stanchions had been made. Mindful of that, the panel did not consider any reduction was warranted.

    (e) The price adopted to the car parking area of either £2/m^2 or £2.40/m^2 had not been raised or discussed by the parties prior to the hearing. It was an entirely new argument, and the panel did not consider it appropriate to entertain it at this stage of the proceedings. It was therefore rejected.

Disposal

23. In view of the above findings and conclusions, the panel was satisfied that the current RV of £205,000, with effect from 1 April 2021, was reasonable and dismissed the appeal.

Date: Tuesday 30 April 2024

Appeal number: CHG101068974

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.