VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Land used for storage and premises; hybrid valuation; appeal allowed.

APPEAL NUMBER:	CHG101073565	
RE:	Plot 4 Riverside Industrial Estate, Watson Close, Grays RM20 3EF (the "appeal property")	
BETWEEN:	HSS Hire Service Group Limited	Appellant
	and	
	Joanne Moore (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	26 March 2025	
BEFORE:	Mr C Derrick, Presiding Senior Member Mr WJ Read, Senior Member	
CLERK:	Ms R Muller	
APPEARANCES:	Mr S Cyrille of Ryan Tax Services UK on behalf of the appellant as both advocate and expert witness Mr L Stevens on behalf of the respondent Valuation Officer as both advocate and expert witness	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed.

2. The Tribunal panel determined a revised Rateable Value (RV) at £113,000 with effect from 22 April 2020 for Plot 4 Riverside Industrial Estate, Watson Close, Grays RM20 3EF (hereafter, known as the appeal property) to reflect the change in adopted rates for the warehouse and office parts of the assessment.

Introduction

3. This appeal has been brought in respect of the following: A proposal was made against the valuation notice in respect of Plot 4 Riverside Industrial Estate, Watson Close, Grays RM20 3EF. The appellant's Challenge to the Valuation Officer (VO) was made on 14 June 2023. Mr Cyrille, on behalf of the appellant, proposed a revised RV of £108,000 with effect from 22 April 2020 based on the warehouse and office assessment of the appeal assessment being incorrectly valued. However, Mr Cyrille within appeal evidence, revised the proposed RV to £113,000 with the same effective date.

4. An appeal to this Tribunal was made, following the VO's Decision Notice of 12 April 2024 not to uphold the appellant's proposed RV.

5. Mr Cyrille 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 included a statement that he was instructed under a conditional fee arrangement.

6. Within his written statement, Mr Cyrille declared 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.

7. Mr Lee, on behalf of the Respondent also appeared as both advocate and expert witness.

8. 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 (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

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

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

<u>*Background*</u>

11. The appeal property had entered the 2017 Rating Valuation List at an RV of £135,000 with effect from 22 April 2020. The assessment was described as 'Land used for storage and premises' and was located on Riverside Industrial Estate in Grays. The appeal property was in close proximity to the A13 and M25, providing links to Central London and other parts of Essex. The appeal property was placed within scheme 408036.

12. The appeal property consisted of being mainly hard surfaced, fenced land with a small portion used for warehouse and offices. The land currently had a total area of 4,442.91 m². Within the premises was a portal framed building built in 2000 with a profile steel roof cladding, which measured over 800 m² and was used as a warehouse and office space. The warehouse did not have air conditioning and was a store to keep the generators from any harsh weather conditions. The land of the appeal property consisted of circa 85% of the total area used within the assessment. Therefore, the warehouse and office were classed as ancillary to the land, and entered as such within the assessment of the RV.

13. The land currently had a value of £17.40 per m². The warehouse had a value of £68.25 per m² and the office was a value of £77.00 per m², which arrived at an assessment of £135,000 RV for the appeal property.

14. The proposed RV from Mr Cyrille for the appeal property had the same value for the land of £17.50 per m², but revised figures for the warehouse of £40 per m² and the office at £48 per m², which arrived at an assessment of £113,000 RV for the appeal property.

Relevant Law

15. The panel is governed by Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, which provides that:

> 2(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;
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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;
>
> (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.

16. 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). This common date was used to ensure that every property was treated in a consistent way.

17. The appeal property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

18. 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 AVD). This common date was used to ensure that every property was treated in a consistent way.

19. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined 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 22 April 2020 when the appeal property had been entered into the Rating List.

Discussion

20. The panel found that the appeal property had a lease which had been renewed on 22 July 2014 at a rent of £120,000. This rent was for the land only. The appellant had erected the building, which had contained the warehouse and office sections. The panel found that even though the rent achieved for the land was higher than the proposed RV, it did take into consideration the details of the scheme that the appeal property had been placed into.

21. Mr Cyrille stated that the evidence he had provided indicated that the appeal property's RV was over assessed. At this current time, the land had been valued at £17.40 per m², which was not under dispute. Specifically, the valuation of the warehouse and office elements had been incorrectly assessed. He stated that the warehouse and office elements should be valued at £40 per m² for the warehouse and £48 per m² for the office.

22. Mr Cyrille stated that the contested RV was supported by the comparable assessments and valuation scheme evidence from 2017. He stated that the scheme that the appeal property had been placed in; 408036 was applicable to Land used for storage. The panel noted that the valuation description for this scheme showed the following:

    Office (for properties which are mainly land) £48.00
    Workshops / stores (for properties which are mainly land) £40.00

23. Mr Cyrille made reference several comparable properties in the locality that had similar land usage and in the same valuation scheme as the appeal property, which supported his revised RV for the appeal property. The panel noted the comparable properties were described within the 2017 Rating List as being 'Land used for storage and premises', with hard surfaced, fenced land.

    (a) 1-2 Glove Works, Rectory Road, Grays, Essex RM17 6ST. The area of land was much smaller at 1,394 m². The workshop had been valued at £40 per m².

    (b) Site 7 Riverside Industrial Estate, Oliver Close, Grays, Essex RM20 3ED. The hard surfaced, fenced land had an area of 6,129.80 m² and the unsurfaced, fenced land had an area of 1.997.10 m². The workshop had been valued at £40 per m².

    (c) Land adj Former Sgb Site, Oliver Close, West Thurrock, Grays, Essex RM 20 3ED. The area of the land was again much larger in size. There were three sections documented within this assessment with regards to the land, which included hard surfaced, fenced land; rough surfaced, fenced land and and unsurfaced fenced land, which altogether totalled 9,128.80 m². The workshop had been valued at £40 per m².

24. The above comparable properties were within the same scheme as the appeal property and the workshops or offices had been valued in accordance with the figures noted in the details at paragraph 18. Mr Cyrille had provided another comparable property of 1 Oliver Close, Grays, Essex RM20 3EE which was similar in size at 4,321 m². However, the panel found that this property was described as 'Road haulage depot and premises'. Therefore, the panel place less weight onto the details provided, as although it may be similar in use, it was not classed as 'Land used for storage and premises' and therefore, not quite as comparable as the other properties Mr Cyrille had referred to.

25. Mr Cyrille had also provided two comparable properties of Rock & Aluvium Ltd and Inkk Steel and Digital, which were located on the same road as the appeal property on Watson Close. Rock & Aluvium had been placed into the same scheme as the appeal property and had its land documented as being 85% of the total area, with the office and workshop being valued at £48 per m² and £40 per m² respectively. The panel found that there was a consistency with valuing properties similar to the appeal property and found the details of the comparable properties convincing when making its decision. This was due to the similarities in the percentage of land when compared to the structures situated on those lands and the values applied by the VO.

26. During the hearing, questions were raised regarding the valuation of the two canopies within the assessment of the appeal property. One had been valued at £10.50 per m² and the other at £6 per m². There's a discussion on whether the value of these canopies should be adjusted. Mr Stevens suggested that the price for both should be consistent and reduced to £6 per m² to maintain uniformity. Mr Cyrille confirmed that he was in agreement with this and that the adjustment of the rate of one of the canopies would not affect his proposed revised RV. Therefore, the panel accepted the revised figure of £6 for both of the canopies within the assessment of the appeal property.

27. The panel turned its attention to the evidence provided by Mr Stevens. Mr Stevens stated that the appeal property had been valued on a hybrid basis. He stated that the dual survey approach to building up a valuation was not uncommon. This had been tested in the Lands Tribunal case of *Kodak Ltd v Triptree* (VO) LT [1980] RA 357, where the VO valued the offices with regard to office values and the warehouses with regards to warehouse values. Furthermore, the approach was adopted in the valuation of two or the comparable properties he had referred to in his evidence of Yard 5b Oliver Road West Thurrock Grays Essex RM20 3ED and Yard 5a Oliver Road West Thurrock Grays Essex RM20 3ED.

28. The panel noted that the comparable properties Mr Stevens had detailed above were also described as 'Land used for storage and premises'. The details of these two properties showed that the land had been assessed using the same value of £17.50 per m². Mr Cyrille informed the panel that Yard 5a and Yard 5b had originally been merged, where the land had still been valued at £17.50 per m² and the two offices had been valued each at £48 per m². The panel noted that once the split had taken place, Yard 5a had two offices still valued at £48 per m² with the warehouse valued at £67.19 per m². Yard 5b had two workshops, the workshop on the ground floor was valued at £67.19 per m² and the workshop on the first floor was valued at £43.67 per m².

29. The panel also referred to the assessment of Rivergate House, Oliver Close, Grays, Essex RM20 3EE, which had two workshops, both valued at £40 per m². The panel held that the assessments of these properties supported the values requested by Mr Cyrille for the appeal property.

30. Mr Stevens defended the current assessment and suggested that the warehouse had substantial permanency, which justifies its valuation. He noted that the structure was well-built with secure access points and therefore should be treated as a significant part of the property. He also stated that the appeal property should have probably been described in the rating list as 'Warehouse and premises; and not 'Land used for storage and premises'.

31. Mr Stevens had also provided details of two comparable properties as part of his rental evidence. The property of Eurobase Sout Site, Hedley Avenue, Grays which was described in the 2017 Rating List as 'Workshop and premises'. The lease had commenced on 1

November 2014 at a rent of £64,500 per annum on full repairing and insuring terms (FRI). This property had an unadjusted adopted rate of £75 per m² for both the workshop and offices with relativities applied where the workshop adjusted rate was £73.13 per m² and the offices adjusted rate was £87.76 per m².

32. The panel noted that the other comparable property provided by Mr Stevens as part of his rental evidence was Unit 1, Tower Thurrock, Oliver Road, Grays. This property was described in the 2017 Rating List as ‘Warehouse and premises’. The lease had commenced on 1 January 2015 at a rent of £452,602 per annum on FRI. This property had an unadjusted adopted rate of £67.50 per m² for both the warehouse and offices with relativities applied where the warehouse adjusted rate was £65.81 per m² and the offices adjusted rate was £381 per m² for the ground floor office and both £78.98 per m² and £89.10 per m² for both of the offices on the first floor respectively.

33. Even though Mr Stevens considered that the appeal property should have probably been described as ‘Warehouse and premises’, it had been described as ‘Land used for Storage and premises’ Therefore, the panel placed less weight onto the comparable properties that were not described as ‘Land used for Storage and premises’ within the 2017 Rating List.

34. Mr Cyrille defended this statement, where he stated that the warehouse was small compared to the land and should not be valued at the same rate as a full warehouse. He emphasized that the warehouse’s structure could be easily removed and that the land should be considered primarily for storage. Mr Cyrille advocated for a reduced valuation of £113,000, emphasizing that the land’s use for storage should be the primary consideration, and the valuation should align with similar properties in the area that were within the same scheme.

35. Even though Mr Stevens did clarify that if the appeal property was ‘vacant and to let’, it would be considered as just land. He did request that the Tribunal reject the appeal and uphold the original valuation, arguing that the warehouse was a significant structure, and its value should be treated separately from the land.

36. The panel found that the discussion centred around how to appropriately value a property with both land and warehouse / office elements, and how to maintain consistency in the valuation process across similar properties.

Disposal

37. In view of the above findings and conclusions, the Tribunal panel placed more weight onto the evidence provided by Mr Cyrille. The panel found that the comparable properties which had been described as ‘Land used for Storage and premises’ as well as the valuation description for this scheme provided proved that the appeal property should be valued in accordance with the scheme it had been placed into. Therefore, the appeal was allowed.

38. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the appeal property’s entry in the Rating List to £113,000 with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

39. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date issued to parties: 24 April 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.
