VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Local Government Finance Act 1988; Non-Domestic Rating; value of storage containers and storage land in dispute ; Dal Virk (VO) & Moor Lane Storage Ltd (2023)UKUT 93 (LC); appeal dismissed .

APPEAL NUMBER:	CHG101102885	
RE:	Shaftec, Soho Pool Way, Birmingham, B18 5JA (the "subject property")	
BETWEEN:	Shaftec Automotive Components	Appellant
	and	
	Lucy Formela-Osbourne MRICS (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	22 August 2024	
BEFORE:	Mrs T Watson, Presiding Senior Member Mr S Mustafa, Senior Member	
CLERK:	Mrs J Routledge IRRV(Tech)	
APPEARANCES:	Mr P Willmore of Rupert David Ltd representing the Appellant. Mr A Leese representing the Respondent.	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel concluded that the Rateable Value of Shaftec, Soho Pool Way, Birmingham, B18 5JA (the "subject property") of £200,000 from 19

October 2022 was reasonable as it should include the land that is being used as storage within the assessment at a value of £5.00 per m^2.

Introduction

3. This was a 2017 list appeal. A check was lodged on 30 March 2023 which was completed on 3 April 2023 following an assessment effective from 19 October 2022 that the (RV) of the subject property was £200,000. This was considered unreasonable and the appellant sought a reduction in the RV to £195,000.

4. The challenge was lodged on 2 August 2023 on the basis that the price adopted for the storage containers was incorrect following the Upper Tribunal (UT) judgment in *Dal Virk (VO) & Moor Lane Storage Ltd (2023)UKUT 93 (LC)*. The appellant sought a reduction in the RV to £195,000 on the basis that the RV was incorrect and unreasonable. The survey and tone were not disputed.

5. The Valuation Officer (VO) accepted that the assessment of the storage containers was inaccurate and adopted the assessment provided in the Dal Virk (VO) v *Moor Lane Storage Ltd* decision, however on checking the assessment it was found that there was storage land that had not been included in the original assessment where the use had changed and it now had value. This resulted in no change to the assessment and therefore the proposal was not well founded. The appeal was received on 4 April 2024.

6. Mr Willmore appeared on behalf of the Appellant as advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018], Mr Willmore declared that he was receiving a conditional fee.

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

Background

8. The property was a Warehouse and premises built in 2001, a detached building of steel portal frame construction . The original valuation included 675m^2 hard surfaced fenced land which had been given no value as it had been assessed in the 2010 list as being used for the circulation and turning for Heavy Goods Vehicles (HGV). There were also a number of storage containers on site which had been given a value of £20.00 per m^2 over land measuring 300m.

9. The UT determined that storage units should be valued at a decapitalised rate with a standard 20ft container having an annual value of £71.90 and the land the container occupied has a separate value.

Relevant Law

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.

    (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

11. The panel were provided with the VO decision notice and the Appellant’s submission which included photographs, the proposed revised assessment, and the Upper Tribunal decision of *Dal Virk (VO) & Moor Lane Storage Ltd (2023)UKUT 93 (LC).*

12. Mr Willmore confirmed that it was agreed that the containers should be attributed a value of £72.00 per container. He also confirmed that this was a dispute regarding the overall RV of the subject property.

13. Mr Willmore argued that to include all of the hard surfaced fenced area was incorrect as some of the area would be used in future for car parking and therefore should not be given a value. It had been agreed to have no value in the previous rating list.

14. Mr Leese on behalf of the VO advised that the judgment of the UT had been applied to the assessment. Following the challenge the overall assessment was reviewed and the aerial photograph showed that the land that had previously been treated as circulation space was now being used as storage. This was measured using the software available to the VO and it was determined the

total area was 995m^2 and was given a value of £5.00 per m^2. The RV therefore remained the same.

15. Following questioning, Mr Leese confirmed that in the 2010 list an area of 675m^2 had been agreed as circulation space with no value. Once it was noted that the land was in use as storage it was given a value, as the hypothetical tenant coming new to the scene would include the value of storage in the rental bid. The VO was under a duty to correct any errors in the list when found, therefore the land was given a value from 19 October 2022.

16. The panel found that it had to consider the use the land was being put to by the current tenant at the effective date which was clearly storage. If the use changed then a proposal could be made at that time for the assessment to be revised. With regard to the previous agreement in the 2010 list, the panel were aware that each list stood on its own and where a change had occurred to the use of all or part of the property it was correct for the VO to review the assessment to take into account the new use.

17. The panel found that the previous assessment of 675m^2 did not include the land that the storage containers occupied, however following the UT decision in *Dal Virk (VO) & Moor Lane Storage Ltd* where it was determined at paragraph 39:

> "The Property is open storage land with items placed on it. In that regard the containers are no different to a portakabin or an item of plant and machinery placed on the land. A container is not a permanent structure and whilst it was agreed between the parties to be rateable whilst on site it is not attached to the site in the way that a conventional building would be. Notwithstanding what has happened at the three self-storage sites relied upon by Mr Rabbette, in my judgement the correct methodology for the valuation of the Property is to value the whole site with an addition for the containers."

The panel was satisfied that the correct approach was to value all of the land being used as storage including the 300m^2 that the containers occupied. Therefore the hard surfaced fenced land outlined by the VO of 995m^2 should all be included in the assessment.

18. In appeals of this nature it is for the Appellant to show that the valuation is excessive. The panel found that the containers had been correctly valued in accordance with the caselaw, There was no evidence submitted by the Appellant to dispute the value of the fenced land, no comparable properties had been provided by the Appellant to demonstrate that the value of £5.00 per m^2 was unreasonable. It was clear from the photograph that the land was being used as storage and therefore had a value to the hypothetical tenant. The panel concluded the VO was correct in placing a value on the whole of the land being used as storage and including this in the assessment.

Disposal

19. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the RV of £200,000 was reasonable as the VO had adjusted the value placed on the storage containers in accordance with the UT decision *Dal Virk (VO) & Moor Lane Storage Ltd* to £72.00 per container and then assessed the land being used for storage and included it in the RV also in accordance with that decision.

Date issued to parties: 16 September 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.