VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; mode or category of use; tone of value for ground floor space; appeal allowed.

APPEAL NUMBER: CHG101119671

RE: 64 Rochester Place, London NW1 9JX (“the subject hereditament”)

BETWEEN:	Senzo Health Ltd	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 18 July 2024

BEFORE: Mr K Everett (Presiding Senior Member)
Miss F Anderson (Senior Member)

CLERK: Mr S Fletcher

APPEARANCES: Mr A Morrish of Alder King (Appellant’s representative)
Mr G Singh (Respondent’s representative)

DECISION and STATEMENT OF REASONS

Decision

1. Appeal allowed. The panel determined the rateable value (RV) of the subject hereditament to be £34,000 with effect from 1 April 2017.

Introduction

2. The appeal process began with a proposal made by the appellant’s representative on 1 September 2023 in respect of the Valuation Officer’s (VO) compiled rating list entry of the

subject hereditament at £57,000 RV with effect from 15 May 2017. The appellant's representative proposed a revised assessment of £24,100 RV from that date based on a revised tone of value for main space being the first floor space, which in turn would decrease the tone of value for the ground floor.

3. The respondent issued a challenge case decision notice on 22 November 2023, which stated that based on the evidence available, the existing rating list entry of £57,000 RV was unreasonable and determined a revised entry of £44,750 RV with effect from 1 April 2017. The revised RV accounted for a reduction to the tone of value for main space. The appellant's representative appealed that decision to this Tribunal on 22 February 2024 on the grounds that the valuation for the subject hereditament remained unreasonable.

4. The subject hereditament was described in the rating list as a workshop and premises. The property was a two-storey terraced building constructed circa 1900.

5. Mr Morrish appeared on behalf of the appellant as both advocate and expert witness. He stated that neither he nor Alder King were instructed under a conditional fee arrangement.

6. Before presenting his evidence pertaining to the substantive issue of appeal, Mr Morrish stated that he now agreed with the respondent's tone of value for main space of £290 per m^2 which was applied to the first floor of the property, however he sought for an adjustment to the tone for the ground floor contending it should be valued as a workshop. As such, he sought assessment of £34,000 RV, which was higher than he originally proposed, but still lower than determined by the respondent. The respondent had valued both floors as offices.

7. As part of their induction training, two new members of the tribunal were observing proceedings. It was explained to the parties that it was the panel's intention to invite their colleague to accompany it to the retiring room. The parties were assured that the new members would not participate in the decision-making exercise but would simply observe as part of their training. Neither party raised any issues or objections to this.

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

Issue

9. The issue for the panel to determine was the correct RV to be attributed to the subject hereditament in the 2017 rating list. The tone of value for main space of £290 per m^2 was agreed by the parties. The dispute concerned whether the tone of value of the ground floor of the property should be reduced based on whether it should be valued as an office or a workshop.

Evidence and submissions

10. Arguments and factual evidence from both the appellant's representative and the respondent was provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant's representative's challenge submission, the respondent's challenge decision notice, photographs of the subject hereditament and rental evidence from properties deemed comparable to the subject hereditament by the parties.

11. The respondent had revised the compiled list entry of the subject hereditament with effect from 1 April 2017 to reflect a reduced tone of value for main space of £290 per m^2. Both floors at the premises were described and valued as offices. A 5% allowance to tone of value for the ground floor space was awarded for a lack of natural light.

12. Mr Morrish sought a revised RV based on the ground floor of the premises being described and valued as a workshop. He contended that it was common practice by the respondent to value the workshop section of a property such as the subject which comprised a workshop on the ground floor and offices above on the first floor at 50% of the tone of the office, which in this case was the tone of the main space. He also sought for the 5% allowance to continue to be awarded to the ground floor due to the lack of natural light.

Discussion

13. 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.

14. 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.

15. 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 hereditament, the material day is 1 April 2017.

16. Rental evidence had been provided by both parties of comparable assessments, however, the tone of value for main space was agreed between the parties. Mr Singh agreed with Mr Morrish that the respondent valued the workshop section of hereditaments which comprised of ground floor workshops and first floor offices at 50% of the tone of value for main space. The panel, therefore considered that the appeal would turn on whether the ground floor should be valued as a workshop, as contended by Mr Morrish, or as an office as contended by the respondent.

17. Mr Morrish stated that the ground floor of the subject hereditament was a workshop on the material date and the state of play so to speak was the same as at the current day. He referred to photographs of the ground floor and described the features on the floor which included a soil pipe and electrical strips on the wall, cupboards and a workbench. He argued that no person would describe the floor as an office. He stated it was clearly distinguished from the first-floor offices, which had a suspended ceiling, partitions dividing space and plenty of natural light. He contended that the ground floor should be valued at 50% of the tone of value for main space, plus an additional 5% given in line with the previous award for poor natural light.

18. Mr Singh stated that based on the photographs provided, the ground floor could be considered to be of workshop standard. He stated that although the premises was described as a workshop and premises in the rating list, the description did not always determine the method of valuation, as reflected by the respondent valuing both floors as

offices in this instance.

19. The panel considered the principal characteristics of the subject hereditament on the material day given the verbal testimonies from the parties and photographs provided and concluded that the ground floor was a workshop on that day. Both parties had considered the same. Applying the *rebus sic stantibus* rule, the panel found that the property had the physical characteristics of a factory and premises on the material day and the respondent's representative did not refer to any alternative former use at the hereditament. It was also described in the rating list as such. The panel also found that an allowance of 5% for poor natural light on the ground floor was fair and reasonable given it had previously been awarded and was clearly a disadvantage which negatively affected the property.

20. The panel determined that the ground floor's description should be altered to a workshop and premises and valued as such in line with the respondent's standard practice for valuing hereditaments which comprised of ground floor workshops and first floor offices. Therefore, the ground floor should be valued at 50% of the tone of value for main space of £290 per m^2. Furthermore, a 5% allowance should be awarded to that figure to reflect the disadvantage of poor natural light on the ground floor.

21. The revised assessment for the compiled list entry with effect from 1 April 2017 as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
Ground	Workshop and premises	77.90	137.75	10,731
First	Offices	80.50	290.00	23,345
			Valuation sub-total	**34,076**
			Say RV	**34,000**

Disposal

22. In view of the foregoing, the appeal was allowed.

23. 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 subject hereditament's entry in the rating list to £34,000 RV with effect from 1 April 2017. The respondent must comply with this order within two weeks of its making.

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

Date: 1 August 2024

Right of 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.