VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal: Local Government Finance Act 1988; Factory and premises; Correct main space rate to be applied; End allowance request: Appeal allowed in part.

APPEAL NUMBER:	CHG101176173	
RE:	100 Albion Street, Castleford WF10 1QX (the "subject property")	
BETWEEN:	CBR Engineering Limited	Appellant
	and	
	Joanne Moore IRRV (Hons) (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Monday 16 December 2024	
BEFORE:	Mr N De Freitas, Presiding Senior Member Mr PA Jennings, Senior Member	
CLERK:	Mr R Patel IRRV(Hons)	
APPEARANCES:	Mr M Iles of Altus Group (on behalf of the appellant as both advocate and expert witness) Mrs P Nwosu (on behalf of the respondent as both advocate and expert witness)	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel determined the appeal property's existing assessment of £45,250 Rateable Value (RV) was unreasonable and reduced it to £40,250 RV, with effect from 1 April 2023.

Introduction

3. This appeal had been brought in respect of the following: 100 Albion Street, Castleford WF10 1QX, which was entered in the 2023 Rating List as factory and premises, at £45,250 RV, effective from 1 April 2023.

4. The appellant's challenge to the Valuation Officer (VO) was made on 22 January 2024. The appeal to this Tribunal was made on 23 July 2024, following the VO's decision notice of 28 March 2024, in respect of the appeal property (hereditament). The VO's decision notice advised there would be no change to the assessment of £45,250 RV.

5. The appeal property (hereditament) is comprised of three survey units, referred to as 'Survey Units 1, 2, and 3'. These separate 'Survey Units' were stated to be unique and different to each other. Photographs were provided showing these three separate 'Survey Units', which were made up of four separate buildings. The panel was grateful to both parties for clarifying which photographs related to which particular Survey Unit', as well as advising of the line entries in the valuation that referred to each particular 'Survey Unit'.

6. Survey Unit 1 is stated to be a portal frame building of average quality, built as part of the complex, between 1940 and 1954. It has an eaves height of 6.7 meters. This building has no heating, air-conditioning or sprinkler, as well as there being no roof or wall insulation. Survey Unit 2 is a pre-1900 two storey purpose built factory/workshop, with no lift. Constructed of brick, it has a 3 meter eaves height, having no roof or wall insulation, as well as no central heating, air-conditioning, sprinkler. Survey Unit 3 is stated to be a protective profile metal building of average purpose built quality, built in 2002. It has an eaves height of 7.56 metres. The roof and wall is insulated, although there is no air-conditioning, sprinkler or central heating.

7. The hereditament is located on Albion Road within close proximity of other industrial and retail units. Albion Road is stated to continue into the A655 which then connects to the M62 motorway at junction 31, which is a 7 minute drive from the subject property.

8. Mr Iles was appearing on behalf of the appellant as advocate and expert witness. Therefore, it was important to ascertain if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

9. Mr Iles confirmed that he was not representing the appellant at the hearing on a contingency fee basis. He also 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 supports his client's case.

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

Background

11. The appellant sought a reduction in the RV of the subject property to £37,000, on the basis of the following;

i. The unadjusted rate (UAR) for all three Survey Units are excessive and each should be reduced.
ii. That an end allowance, which was awarded in respect of the subject property for it's entry in the 2017 Rating List for heating and insulation, should be re-applied in respect of the 2023 assessment.

Relevant Law

12. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

13. In respect of an appeal against an entry in the 2023 Rating List, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832). In respect of the subject appeal, the material day is 1 April 2023.

Discussion

14. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the AVD, 1 April 2021. This date was used to ensure that every property was treated in a consistent way.

15. The panel was aware that the Lands Tribunal judgment in *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. This case had established six propositions that gave clear guidance to be followed when assessing rateable value. Bearing these six propositions in mind, the panel acknowledged that the rent on the subject property, where available, was considered to be the correct starting point and consideration to how that rent compared to the statutory definition of rateable value. The rents on similar properties were also considered and assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

16. In considering whether the current RV was reasonable, the panel turned to the rent passing on the subject property. The property entered the 2021 Rating List on the AVD, of 1 April 2021, with the panel noting that the current rent was based on a 20 year lease effective from August 2001, at £37,500 per annum. This lease, when agreed, was based only on Survey Units 1 and 2, with Survey Unit 3 not being included, with the appellant stating it had been built by the occupier. In addition, with the lease having expired in August 2021 the appellant stated the

landlord was yet to serve notice for a new lease, adding that the absence of this signified that the subject property was over-rented, and that the market for industrial properties of the same age had not increased since the 2017 Rating List AVD of 1 April 2015. The panel noted that during the hearing, however not in the submissions exchanged prior to the hearing, that the respondent asserted that there was a relationship between the landlord and the appellant, stating the parties were connected.

17. With the hereditament comprising three separate Survey Units, the panel was presented with considerable evidence of comparable properties from both parties in support of their respective cases. The panel had regard to all of the evidence, and the respective arguments of both parties, about the UAR they considered appropriate to apply to the subject property. The evidence included information of units valued at £24/m^2, rental evidence to support the propositions of the UAR for Survey Unit 3, as well as tonal evidence to support the UAR values of Survey Unit 1 and 2.

18. The appellant, whilst having provided rental evidence to support his proposed UAR values, stated that with regard to the comparable properties referred to by the respondent, there were too many adjustments from each piece of the rental evidence for these to be reliable. The appellant contended that the rental evidence from the 2017 Rating List was the most pertinent, with details of comparable properties provided, which the respondent stated lacked relevance, being too remote from the AVD.

19. The respondent, in defending its valuation, provided rental evidence of comparable properties where rents had been agreed closer to the AVD, between August 2019 and April 2021, with the panel asked to give most weight to Minnovation Ltd, Cliffe Hill Works and Unit 5,Astoria Court. However, the appellant stated this evidence related to properties all substantially smaller in size to the subject property, with the higher UAR values of these comparable properties recognised as having taken into account the reason of quantum. Furthermore, the appellant stated that other than Minnovation Ltd, Cliffe Hill Works, which was located in an area with a different post code in central and not eastern Wakefield, the respondent did not appear to have provided any rental evidence to support the assigned UAR of £26.50/m^2.

20. Notwithstanding the above, the panel noted that the appellant stated that the most pertinent rental evidence remained that of the subject property. On the basis that this evidence was that agreed 20 years prior to the AVD in respect of part and not the whole of the assessment, the panel placed little weight on the passing rent on the appeal property, which it considered on its own, was not helpful. Instead having been presented with an assortment of evidence, to support the respective propositions for the three separate Survey Units, the panel determined it best to adopt a ‘stand back and look approach’ in deciding this appeal.

21. Having given regard to the submissions and evidence presented by both parties, in arriving at a decision, the panel found that the UAR for Survey Units 1 and 2 should be £21/m^2. This was more appropriate and more fairly reflected their attributes. The panel did not deem that there should be any alteration made to the value of Survey Unit 3, the more modern building, which clearly warranted a higher value, reflected through the relativity to be applied.

22. The panel then turned to the appellants’ request for the reinstatement of the end allowance, which had been removed in the 2023 Rating List. The respondent stated the removal of the allowance was based on the VO’s analysis from the 2021 revaluation, with the VO deciding that as the disabilities of heating and insulation were already present in many of the rented properties, the allowance was not appropriate.

23. The panel deemed that the onus was on the appellant to evidentially demonstrate that the whole of the subject property was disadvantaged to an extent in comparison to other similar properties, such that it necessitated an end allowance. The evidence presented did not show this. The panel agreed that the insulation and heating issues remained at Survey Units 1 and 2, with Survey unit 3 unaffected. The panel would allow for these issues to be adequately reflected in the relativities applied to these affected areas, determining that no end allowance was justifiable for the subject property as a whole.

Disposal

24. In view of the above findings and conclusions, the panel was satisfied that the current assessment was unreasonable. The panel determined that an assessment of £40,250 RV more accurately reflected the appeal property, and the panel calculated a revised valuation, as shown below:

Floor	Description	Area m^2	£/m^2	Relativity	Value (£)
Ground	Workshop	460.60	21.00	0.922	8,918.14
Ground	Workshop	38.30	21.00	0.789	634.59
Ground	External Storage	64.50	21.00	0.579	784.26
Ground	External Storage	68.10	21.00	0.579	828.03
First	External Storage	147.40	21.00	0.318	984.34
Ground	Offices	58.87	21.00	0.957	1,183.11
First	Offices	52.29	21.00	0.957	1,050.87
Ground	Workshop	437.83	21.00	2.6676	24,527
Additional features of property included in the valuation					
	Unsurfaced, Fenced Land	432.00	2.50		1,080
	Plant and Machinery				371
				Valuation sub-total	**40,361.34**
Say £40,250 Rateable Value, with effect from 1 April 2023					

Order

25. As a consequence of the above decision, the Tribunal Panel orders the Valuation Officer to reduce the 2017 Rating List entry to £40,250 RV, with effect from 1 April 2023, within two weeks of the date of this Order.

26. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Date issued to parties: 15 January 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.
