VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal appeal: Local Government Finance Act 1988; Challenge against Compiled List entry; Warehouse and Premises; accuracy of rateable value; Assessment of comparable properties; Allowance for fragmentation sought; Decision: Allowed in part.

APPEAL NUMBER:	CHG101181521	
RE:	Units 1-2 Gnd Flr Lhs, Arundel Business Park, Brownfields, Welwyn Garden City, AL7 1AY (the "subject property")	
BETWEEN:	Garnell Property Investments Limited	Appellant
	and	
	Joanne Moore (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	7 October 2024	
BEFORE:	Mr SP Wood, Presiding Senior Member Mr SC Kamalan, Senior Member	
CLERK:	Mr J Massey IRRV(Dip)	
APPEARANCES:	Mr H Tann of Altus Group, representing the appellant Ms N Awoyokun, representing the respondent Ms M Berkeley, witness of fact for the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The panel determined the Rateable Value (RV) of the subject property at £12,250 with effect from 1 April 2017.

Introduction

3. This was a 2017 Rating List appeal. The subject property had been entered in the 2017 Rating List as “Warehouse and Premises” at a RV of £12,750 with effect from 1 April 2017. As this was a compiled list appeal the material day was also 1 April 2017.

4. The challenge proposal was submitted by Altus Group on behalf of Garnell Property Investments Limited and was received by the Valuation Officer (VO) on 7 February 2024. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong and proposed a revised RV of £12,000 with effect from 1 April 2017 for the subject property.

5. The VO issued a challenge case decision notice on 17 March 2024. The VO’s decision was to treat the appellant’s challenge as not well-founded and proposed no change to the rating list.

6. As part of their induction training, a new member of the tribunal was 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 member would not participate in the decision-making exercise but would simply observe as part of their training. Neither party had any issues or objections to this.

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

Background

8. The subject property is a brick-built ground floor warehouse and office constructed in 1991 on a large industrial estate in Welwyn Garden City. Each unit has a pedestrian entrance and a roller shutter door, and a doorway has been created between the two units to allow passage of personnel and goods.

Issue

9. The issue between the parties concerned the RV of the appeal property. Mr Tann, for the appellant, sought a reduction to £12,000 RV based on a 5% allowance due to disabilities attributed to fragmentation. Ms Awoyokun, for the VO, was of the opinion that an allowance for fragmentation was not applicable and defended the current assessment of £12,750 RV.

10. All relevant factual information regarding the subject property, including the area, was not disputed by the parties.

Evidence and Submissions

11. As Mr Tann appeared on behalf of the appellant as both advocate and expert witness, the clerk asked 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). It was established that Mr Tann’s company would receive a conditional fee or some other success related arrangement if the rateable value was reduced as a result of the panel’s decision. However, Mr Tann declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

12. 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).

13. The statement of truth provided by Ms Awoyokun confirmed that she was not instructed under any conditional or other success-based fee arrangement.

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

15. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge including a copy of the challenge decision notice. The appellant's supplementary evidence statement also included a summary of the evidence exchanged and discussed during the challenge. Both documents included the parties' arguments, expert witness statements and location maps and photographs of the subject premises and their comparable properties.

16. In support of his assertion that a 5% allowance was applicable, Mr Tann referred to the allowances of 5% granted in respect of a number of similar industrial units for 'fragmentation' or 'divided or split unit'. He considered that the subject property suffered from a similar disadvantage to these assessments and as such, an allowance was warranted.

17. Ms Awoyokun stated that the subject property contained internal access between the two units, which was large enough for goods to pass through, and did not therefore suffer from the same disadvantages as the appellant's comparable assessments.

Discussion

18. The appeal 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 let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

19. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)and Leicester City Council* 1976, as referred to by the respondent. This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

    (1) 'Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

    (2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in section 19(6) of the General Rate Act 1976 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

18. The panel was aware that, following the propositions set out above, the rent on the subject property should be a starting point, followed by those on similar properties. As no rental evidence had been submitted by either party, the panel was required to consider the assessment of similar properties in the locality.

19. Mr Tann referred to the following assessments, which were entered in the rating list as either Factory and Premises or Warehouse and Premises, and had allowances for divided or split unit;

<u>Challenge agreed – allowance of 5%</u>
Unit 33-37, The I O Centre, Hearle Way, Hatfield, Herts, AL10 9EW
Unit 1-2, Metro Centre, Ronsons Way, Sandridge, St Albans, Herts, AL4 9QT
Unit 16-18, Fowler Road, Ilford, Essex, IG6 3UT
16, Alms Close, Huntingdon, Cambs, PE29 6DY

<u>Challenge well founded – allowance of 5%</u>
Units 14 & 15, Sedgwick Road, Luton, LU4 9DT
Jenson House 10 -11, Flitch Industrial Estate, Dunmow, Essex, CM6 1XJ
Unit 8-10, Redburn Industrial Estate, Woodall Road, Enfield, Middx, EN3 4LE
39-40, Capital Business Centre 22, Carlton Road, South Croydon, Surrey, CR2 0BS

20. The respondent contended that the internal access between the two units was created by the tenants of the subject. This had been confirmed on an inspection by Ms Berkeley who confirmed that the width of the doorway was 1.79 metres. She stated that this was sufficient to allow passage of goods on pallets between the two units. Ms Awoyokun stated that apart from Unit 8-10, Redburn Industrial Estate and 16 Alms Close, the appellant's comparable properties each consisted of two or more units, which were either joined to each other but with no internal access between units, or completely separate with the only access between buildings being via a public road. She confirmed that Unit 8-10, Redburn Industrial Estate and 16 Alms Close did have internal access between their adjoining units, but these consisted of pedestrian-sized doorways which would restrict the movement of goods and therefore they

had allowances of 5% applied. The panel considered that to fully utilise the height of the two adjoining units, a forklift would be required to access the higher shelving units.

21. The panel noted from the photograph of the internal access in the subject property that it appeared to be the same height as a regular doorway – ie to allow an average height person to pass through. It did not consider that the height of the doorway linking the two subject units would be sufficient to allow the passage of a forklift, which would be a disadvantage in the case of a warehouse. The panel considered that whilst goods could pass through this doorway, a forklift truck could not. Having regard to the 5% allowance granted for Unit 8-10, Redburn Industrial Estate and 16 Alms Close, the panel considered that the limited height of the doorway at the subject property would pose less of a disadvantage as it was wider. Having weighed the relative disadvantage of the limited internal access at the subject property against that at Unit 8-10, Redburn Industrial Estate and 16 Alms Close, the panel determined that a 4% allowance was warranted.

22. On this basis the assessment was determined at £12,250 rateable value and the appeal was allowed in part.

Order

23. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list for the subject property to £12,250 RV in accordance with the valuation below, with effect from 1 April 2017.

24. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

25. A refund of the paid fee will now be arranged under Regulation 13E of the NDR (Alteration of Lists and Appeals) Regulations 2009. The refund will take around six weeks to process.

Date issued to parties: 28 October 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.

Valuation sub total		13,086
Adjustments made to subtotal		
Access	-2.5%	-326
Divided/Split Unit	-4.0%	-510
Total Value		12,250
Rateable Value		12,250