

THE VALUATION TRIBUNAL FOR ENGLAND



*Non Domestic Rating Appeal; 2017 Rating List; Land Used for Storage and
Premises; Rental evidence; Comparables; Weight attached to evidence;
Appeal allowed in part*

Re: Yard A R/O Good Companions Garage, Chelmsford Road, Rawreth, Wickford,
Essex SS 11 8SY

APPEAL NO: CHG100016360

BETWEEN:

Mr T Street

(Appellant)

and

Mr C Sykes

(Respondent Valuation Officer)

BEFORE: Miss U Haque (Chairman); Mr O Miller

SITTING AT: Tribunal Offices, 120 Leaman Street, London E1 8EU

ON: Monday 14 January 2019

APPEARANCES:

Mr T Street (Appellant)

Mr R Waterman (Representing the Appellant)

Mr C Lewell (Representing the Respondent)

Summary of decision

The appeal was allowed in part and the assessment was determined at £16,500 with effect from 1 April 2017.

Introduction

1. This was a 2017 Rating List appeal and the rateable value of the appeal hereditament was £21,750 with effect from 1 April 2017. This was a compiled list appeal so the material day was also 1 April 2017. The appeal was made following the Valuation Officer's Challenge Case Decision Notice of 22 August 2018 in respect of the appeal property.
2. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel when coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.
3. Prior to the hearing there had been an objection made by the Valuation Officer to the introduction of, what he contended was, new evidence by the Appellant's representative. Consideration had been given to the matter and, in a determination by a Vice President of the tribunal dated 2 January 2019, it had been decided that 'The 'new evidence' provided by the Appellant's representative is allowed as it is not considered to be 'new evidence' having been provided by way of a rebuttal of information/evidence put forward by the Respondent Valuation Officer's representative.'
4. At the hearing there were no further preliminary matters and the panel decided that the appellant's representative should present his evidence first in accordance with the usual procedure.
5. The subject hereditament is described in the rating list as Land Used for Storage and Premises and comprises 1779.2 m² of rough surfaced fenced land together with two storage containers. It is in the mode or category of occupation of an automobile breakers yard and would be considered a sui generis use for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended). The property gained permission for vehicle breaking in 2013.
6. The property rented for £28,600 with effect from March 2017.

Issues

7. The issue in dispute was price per m² to be adopted for the land. The Valuation Officer had adopted a rate of £12 pm² whilst the appellant's representative contended for £6.50 pm².

Evidence and Submissions

8. Mr Waterman outlined the history of the site which was once a petrol filling station and explained that the premises are not a scrap yard operating in the scrap metal industry but is an Authorised Treatment Facility (ATF). The subject land is one of a number of hereditaments which originally comprised a single property at Good Companions Garage. He contended that it is of low quality without a water supply or toilet facility.

9. To support his argument that the adopted rate of £12 pm² was excessive, Mr Waterman referred the panel to the rates adopted for land at a large number of other similar hereditaments and argued that the evidence clearly demonstrated that the prevailing rate for vehicle breakers and scrap yards in the locality was well below that adopted at Good Companions. He explained that the range of values adopted within the relevant valuation scheme was from £2 pm² to £12 pm² depending upon size, location and other physical factors, with the most commonly adopted value being £8.50 pm². The scheme states that 'the value is applicable to land used for storage, scrap/breakers yards and associated uses within [defined local authority areas].....'
10. In particular the panel was referred to G8 Export, Lower Road, Hockley; Lychgate Farm, Arterial Road, Rayleigh; Pudsey Hall Farm and R/O 2 Murrells Lane which were located close to the subject premises and had rates for rough surfaced land ranging from £3.50 pm² to £5.75 pm² with hard surfaced land ranging from £3.50 pm² to £7.50 pm². A large number of other properties were cited extending to a substantial distance from Good Companions but Mr Waterman argued that the local evidence provided the best guide as to the value to be adopted. Mr Waterman referred to the location of each site and the quality of the land surface and he compared and contrasted each with the subject and the comparables cited by the Valuation Officer. He also provided photographic evidence to support his argument by illustrating the quality of the land surface.
11. The Valuation Officer had argued that because the premises has a certificate of lawful use it merits a higher rental/rateable value. Mr Waterman, however, argued that this did not reflect the fact that the premises, including the Good Companions buildings complex and additional land, had been let from November 2013 and had been entered in the 2010 rating list at a rate of £7.50 pm². This lower value was argued to be because of the risk of planning enforcement but Mr Waterman challenged this assertion, pointing out that the premises had been operating as a vehicle storage and dismantling facility from the time of its purchase in 1989.
12. Mr Waterman also challenged the submission that the sale for development of land located at Temple Farm Estate which was occupied by several vehicle dismantlers had caused a reduction in the availability of land for vehicle dismantling in relation to the demand. To support this argument he referred to the various occupiers and provided details as to where and when they had relocated, with each operation readily finding a suitable alternative. He submitted that there were plenty of suitable sites available.
13. Referring to the rental evidence Mr Waterman argued that the 2017 rating list was effective from 1 April 2017 and he argued that the rental evidence should attach less weight, given the developed tone and thus the settled assessments of other properties in the list should be given the greatest weight. Looking at this evidence and attaching most weight to those comparables closest to the subject property he submitted that a rate of £6.50 was appropriate and he sought a revised rateable value of £12,000.

14. On behalf of the Valuation Officer, Mr Lewell submitted that the appellant's proposed rate of £6.50 pm², which was the same as that determined by the tribunal as correct for the 2010 rating list, was incorrect. He argued that there were two significant changes affecting the rental value of the property as at 1 April 2015. Firstly he stated that the planning permission gained in 2013 for vehicle 'breaking' removed the risk of planning enforcement and he contended that the uncertainty affected the value, citing a property where an allowance of 35% had been made to reflect a 'planning restriction, enforcement in place'. Secondly he referred to the Temple Farm site which was a site comprising a number of storage hereditaments including vehicle breakers. He submitted that the removal of this site reduced the supply of available sites and thus with a constant demand, the price would rise.
15. Mr Lewell argued that sites with waste licence/de-pollution licences and ELV licences were more valuable than other sites. He stated that the value of the land was affected by its quality, judged by factors such as its access, shape, topography and the type of surface.
16. In respect of the correct level of value to be adopted, Mr Lewell submitted that the best evidence was provided by the rents passing on the property. Historically, the whole site had been rented for £52,000 in November 2013. Adopting a rate of £12 pm² for the land resulted in a total figure of £55,750 which did not reflect the increased 'quantum of take.' He thus argued that this evidence indicated that the existing assessment was reasonable. In addition, the property rented in June 2017 for £28,600 pm² which is well in excess of the rateable value and he did not believe that rents had risen by 138% to suggest that the appellant's valuation was reasonable.
17. In respect of the appellant's argument regarding the tone having been established, Mr Lewell argued that this was not correct and, whilst the list is almost two years old, there have, to date, been no similar challenges or tribunal determinations in respect of such properties and thus, he argued that greater weight must be placed on the rent passing on the subject property.
18. Overall, he argued that the rental evidence did not suggest that the existing assessment was incorrect and asked that the tribunal determined accordingly.

Decision and reasons

19. 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).
20. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.
21. The appeal hereditament is let and, in accordance with the principles detailed in *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141, the panel recognised that the passing rent must be the starting point in any consideration of value. The appellant had proposed a contrary view and

submitted that regard must be given to the tone based on the assessments of other similar properties. He submitted that the 2017 list had been in effect since 1 April 2017 and referred to *Futures London v Stratford* which laid down the three stages to the establishment of tone of the list. This decision stated that at first, when a new rating list is put on deposit, assessments will carry relatively little weight as they are opinions of value by the valuation officer, as yet unchallenged and untested by negotiation. Over time these assessments will be challenged and agreed by determination by a VT or Upper Tribunal. Finally, a stage is reached when enough assessments have been agreed, or determined, or are unchallenged to establish a pattern of values, a tone of the list.

22. The panel did not accept that a tone had been established. Notwithstanding the age of the list, it is still in the very early stages of its life and given the relatively low number of challenges and the almost significant number of appeals, the panel did not consider that it could reasonably be argued that a tone had been established in this locality for such properties. The panel did, however, accept that the assessments of other properties in the same mode or category of use should be considered.
23. In respect of the rents passing on the subject property which, in essence, provided the support for the Valuation Officer's argument that the appellant's proposed rate of £6.50 pm² was unreasonable, the panel was provided with limited information. The rent of the whole site in 2013 was found to be of limited value and was given little weight. The property at that time included a range of buildings and was considered to be significantly different to a parcel of land with storage containers. It was thus of limited assistance when assessing a land value. Having regard to *Lotus*, the panel found that the degree of adjustment to this rental evidence to support a rent on a part of that site was great.
24. The 2017 rent on the subject property was two years after the valuation date and the panel was provided with very limited information regarding the terms of the lease. In addition, other than a broad statement asserting that rents had not increased by 138%, the panel was provided with no evidence as to how the market had changed since the valuation date.
25. Although he was not a chartered surveyor or a valuer, the panel found the appellant's representative to be both experienced in the field and knowledgeable of the various sites that were discussed and their histories. Whilst the respondent had put forward his arguments regarding an enhanced value associated with the removal of risk, in respect of the granting of planning permission, the panel found it significant that the site had operated for many years and thus accepted the argument that the extent of the risk in this case was limited.
26. In respect of the Temple Farm site, the panel found no evidence to support the argument that values for such sites would have risen following its closure. The appellant explained that the occupiers of that site had readily identified and occupied other sites in the area and thus the panel was satisfied that the supply and demand equation was not affected. It was clear to the panel that the

licences granted for such facilities vary and the quantity that can be handled varies considerably. Similarly, the extent to which the sites can further process the vehicles after they have been dismantled varies from site to site.

27. The subject property is an authorised treatment facility and has permission to store vehicles, dismantle vehicles and sell vehicle parts and appeared to the panel to be at the lower end of the spectrum for such sites with a modest capacity compared with a number of the comparables.
28. Having regard to the comparables cited, the panel noted the appellant's representative's comments and had regard to the photographs to enable a comparison to be made with the appeal premises. It was clear that the surface quality of the subject land had deteriorated and it was inferior to a number of the comparables cited. Overall, the panel found the local evidence to provide a better indication of value with the G8 site being of particular assistance.
29. Overall, having regard to the quality of the land the panel found that the appellant's proposed rate of £6.50 pm² was insufficient but found no evidence to support the existing assessment. Given the range of values adopted at the comparable properties, the panel found that a rate of £9 was fair and reasonable for the subject property.
30. On this basis the assessment was determined at £16,500 rateable value.

Order

31. 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 appeal hereditament to £16,500 RV, with effect from 1 April 2017.
32. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

APPEAL NO: CHG10001636

Date: 13 February 2019