VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; workshop and premises; office and premises; rental evidence; comparable assessments; appeals dismissed.

RE: Units 10.2 and 10.3 The Leather Market, London, SE1 3ER

APPEAL NUMBERS: CHG100033466 and CHG100033458

BETWEEN:	Reardon Smith Architects Ltd	Appellant
	and	
	Mr A Corkish (Valuation Officer)	Respondent

PANEL: Mr A Ramsay (Senior Member)
Miss EFM Blois

CLERK: Mrs H Beresford

REMOTE HEARING ON: 20 October 2020

APPEARANCES: Mr D Hill of Altus Group (Appellant's representative)
Mr C Cates (for the Valuation Officer)

Summary of decision

1. The appeals were dismissed, and the assessments were confirmed at £82,500 for unit 10.2 and £88,500 for unit 10.3 with effect from 1 April 2017.

Introduction

2. These appeals have been brought in respect of the following: Units 10.2 and 10.3 The Leather Market, London, SE1 3ER (the 'appeal properties'), which were entered in the 2017 rating list as 'workshop and premises' and 'office and premises' at rateable value (RV) £82,500 and £88,500 respectively, effective from 1 April 2017. Despite their descriptions in the list both properties were in use as offices.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Reardon Smith Architects Ltd made an appeal to the Valuation Tribunal for England (VTE). The appeal was made because the valuation officer decided not to alter the 2017 rating list following the appellant's check and challenge. The appellant had sought a reduction to RV £69,000 for unit 10.2 and £74,500 for unit 10.3 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the valuation officer had not made any alteration to the rating list in his challenge decision notice.

5. The appeal hereditament is located near London Bridge and is a former tannery building which was built in 1833, it is grade 2 listed and was converted into offices in the 1990s it provides a basic space with single glazed windows. The building is owned by Workspace a company which typically provides accommodation for start-up companies.

6. The appellant's representative, when appearing as expert witness, stated that he was on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client's case.

7. The panel has accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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).

8. It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

9. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

10. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

11. 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 item of evidence, should not be construed as it having been overlooked

Issue

12. The base level of value adopted for the appeal properties was not agreed. The valuation officer has adopted £380.00/m^2 in respect of both appeal properties, but the appellant sought a reduction to £320.00/m^2.

Evidence and submissions

13. The appellant's submission included: a rental agreement with Workspace; photographic evidence; a location plan; a map and valuations of the comparable properties; the current 2017 assessment; the valuation scheme; and revised valuations in respect of the appeal properties.

14. Mr Hill contended that the rent in a 'Workspace' unit should be regarded as an 'occupation fee' rather than the open market lease transaction which would be normal for this type of office space. He stated that the company's website describes the lettings at the Leather Market as offices with 'flexible leases as standard enabling occupants to expand or relocate without hassle'. He argued that the leases were initially for three years, but the agreement is open ended and includes insurance and repair as well as service charges. The rents are stepped and increase annually by 5% once the initial three-year term concludes. As well as this he argued that unlike a normal lease the agreements are personal to the tenant and cannot be reassigned. On this basis he did not believe that the rent passing for the subject properties could be considered to be indicative of the open market and preferred to rely on the evidence of comparable properties.

15. Mr Hill asked the panel to confirm £69,000 RV for unit 10.2 and £74,500 RV for unit 10.3.

16. The valuation officer's representative Mr Cates had provided various evidence including: a valuation of the properties; a comparable rental summary; a response to the challenge; and various correspondence between the parties. However, Mr Cates preferred to give an oral submission in response to Mr Hill.

17. Mr Cates argued that the lease agreements provided by Workspace were not outside of the rating hypothesis as after adjustments for insurance and service charges etc. the rents were exactly what a tenant would be prepared to pay in the open market. He contended that Mr Hill could have compared the rents on the subject property to other properties in the same building but had preferred to look further afield at more modern properties. Mr Cates was of the opinion that the RV of the subject properties fairly reflected the rent at the antecedent valuation date (AVD) of 1 April 2015 and therefore asked the panel to confirm an RV of £82,500 for unit 10.2 and £88,500 for unit 10.3.

Decision and reasons

18. The panel had to determine the rateable value for the appeal properties, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

19. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

"The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic 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"

20. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

21. The panel noted that there was rental evidence for the subject properties as the leases had been agreed in September 2014. Mr Hill argued that the rents provided to the Valuation Office on the form of return (FOR) which had been completed by the landlord were incorrect at £93,030 for unit 10.2 and £96,544 for unit 10.3. He stated that the rent for unit 10.2 was in fact £104,875 for the period 18 September 2014 to 17 September 2015. He also contended that the rents provided could not be relied upon because these were serviced offices, they were not open market rents and, as such, did not adhere to the rating hypothesis. He argued that the rents for all of the other units in the building should be disregarded on the same basis and that the panel should, instead, look at other comparable properties.

22. The panel did not place significant weight on the comparable properties cited by Mr Hill. In particular: 160 Borough High Street is a new building which is situated in a different location; 65 Southwark Street is over a mile away and not in the same market as it is not serviced offices; 30 Stamford Street had been reviewed and had an unadjusted rate (UAR) of £460/m^2; 1 Pear Place is further away in Lambeth and once again not a serviced office; and Maltings Place, seen by the panel to be the closest comparable in Mr Hill's evidence was not considered to be as compelling as the properties in the same building as the subject properties.

23. The panel did not accept Mr Hill's arguments and found that the rental evidence at the subject properties was the most pertinent and relevant evidence to attach the most weight to.

24. Mr Cates had argued that the rents of the other properties in the building should not be disregarded simply because they included service charges, or because Mr Hill had stated that the landlord had not provided the correct details in respect the passing rent on unit 10.2.

He suggested that the landlord could have reported a lower rent because the FOR requires the landlord to provide only the element which relates to rent and nothing else. The rents quoted by the Valuation Office and provided by the landlord analysed to £449.40/m^2 for unit 10.2 and £434.87/m^2 for unit 10.3.

25. The panel found the rental evidence provided by Mr Cates which included various other properties in the same building to be the more compelling evidence the . It also noted that of the one hundred and one units in the building there had been no other challenges to the RV. In light of Mr Cates' evidence, the panel held that the respective RV's of £82,500 and £88,500 (£380/m^2) were fair and reasonable.

26. In conclusion, it was for the appellant to prove to the panel that a reduction was appropriate, in this case there was a lack of credible evidence to convince it that a reduction in the assessments to £320.00/m^2 was warranted.

27. The appeal was therefore dismissed.

Date: 3 November 2020

Appeal numbers: CHG100033466 and CHG100033458