VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Workshop and Premises; accuracy of rateable value in list; rental and comparable evidence considered; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Appeal dismissed.

RE: 25 Commercial Road, Strood, Rochester, Kent, ME2 2AD

APPEAL NUMBER: CHG100046711

BETWEEN:	Auto Repair (Medway) Ltd	Appellant
and	Andrew Corkish (Valuation Officer)	Respondent

BEFORE: Mrs J Routledge (Senior Member)

CLERK: Mr D Jefferies

APPEAL DECIDED WITHOUT A HEARING

Summary of decision

1. Appeal dismissed. The existing valuation is not unreasonable and the entry in the rating list is confirmed at £15,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. In accordance with the Tribunal's business arrangements, I have been authorised to consider and determine this appeal alone.

3. Ordinarily, the Tribunal would have considered and determined this appeal, following a public hearing. However, in view of the Covid-19 pandemic and to avoid justice being further delayed, the parties were contacted by the Tribunal office by email, to ascertain if they were prepared to give their consent to this appeal being decided without a hearing. In the event, both parties were

happy to give their consent and therefore arrangements were made for the appeal to be decided without a hearing, in accordance with Regulation 29 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009. Regulation 29 is as follows;

(1) Subject to the following paragraphs, the VTE must hold a hearing before making a decision which disposes of proceedings unless--

(a) each party has consented to, or has not objected to, the matter being decided without a hearing; and

(b) the VTE considers that it is able to decide the matter without a hearing.

(2) The VTE may in any event dispose of proceedings without a hearing under regulation 10 (striking out proceedings).

4. Both parties have complied with the Tribunal's standard directions and having reviewed the evidence, arguments and submissions, the Tribunal is satisfied that it can consider the appeal without a hearing, without any further input from the parties, on the basis of their respective written representations.

5. The appeal before me was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was originally £16,000 from 1 April 2017, with a description of Workshop and Premises. This was a compiled list appeal, so the material day was also 1 April 2017. At the challenge stage the Valuation Office Agency (VOA) reduced the RV to £15,000 and altered the rating list with effect from 1 April 2017. The appeal was made on 3 June 2020 against the Valuation Officer's (VO) Decision Notice of 27 February 2020 in respect of the appeal property and the RV of £15,000. The VO's decision was to treat the appellant's proposal as not well founded and the entry of £15,000 RV was deemed as correct. The proposed RV sought by the appellant was £12,000.

6. The absence in this decision of a reference to any statement or item of evidence placed before me by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by myself.

Issue

7. The issue between the parties concerned the RV of the appeal property and, specifically, the rate per m² that should apply. Mr S Stroud of Town and Country Commercial Surveyors, for the appellant, sought a reduction to £12,000 RV based on £65/m². The VO defended the existing RV of £15,000, which was based on £80/m² and sought dismissal of the appeal.

8. All relevant factual information was not disputed by the parties.

Decision and reasons

9. I have considered the papers and find the appeal property should have an unadjusted RV value of £15,000 with effect from 1 April 2017.

10. The property is a workshop situated on an old industrial estate. The original building was constructed in the 1950s and up until the 2017 rating list was similar to its surrounding premises. The original building was subsequently demolished and in 2013 the property was rebuilt, and a new lease was agreed. According to the appellant's representative the original rent of £9,000 (increased to £11,000) taken on a lease in 2017 was not a rent paid for a land site but for the original 1950s old industrial building of 300m^2 on a total land area of

approximately 600m^2. The VO has a Form of Return (FOR) that states that the rent is paid for the land only and that the subject property was built in 2013 at a cost of £180,000. This building is owned by the occupier. The VO argued therefore that the rent stated cannot be classed as an open market rent as it is not for the actual subject property but the land that it stands on.

11. I accepted that the rent passing on the appeal property was the appropriate starting point, in accordance with the propositions for weighing evidence established in the Lands Tribunal decision in *Lotus and Delta v Culverwell (VO)* [1976] RA 141. The RV represents the rent that the premises would have likely achieved on the open market at the AVD of 1 April 2015. *Lotus and Delta* also established that assessments of comparable properties were relevant and that an opinion of the value of the appeal property should be reached in the light of all of the evidence, weighed appropriately. I had regard to what both parties have had to say regarding the subject property's rent, an extract of the lease was supplied which was a renewal two years post the AVD. The VO submitted that this was in respect of the land only according to the FOR. No evidence of this was provided to the Tribunal. However, it was clear that this was a renewal lease with a longstanding tenant. Given that the rent was initially agreed in 2013, and having regard to the uncertainties surrounding the lease, I therefore placed no weight on the passing rent.

12. According to the appellant there was an increase from the 2010 rating list to the 2017 list for the property from £63.50/m^2 to £85/m^2. The appellant contended that the price /m^2 of other units in Medway had not increased between lists and considered the increase for the subject property to be excessive. It was argued that the area was not improved, and the property did not warrant such an increase given the locality. The comparable properties they suggested were in the same industrial estate or nearby and were much older and in different valuation schemes. These had been valued at between £50/m^2 to £68/m^2. The appellant rejected the only comparable property used by the VO because he considered that two properties did not make a scheme. The VO gave the appellant an opportunity to provide alternative comparable rental evidence, but this was not forthcoming.

13. The appellant has highlighted the increase between the valuation for the subject property in the 2017 list and that shown in the 2010 list. Mr Stroud has supplied details on older industrial assessments showing a nil increase between lists. I noted his point but whilst the percentage increase between lists for the subject property was some 25% I am mindful that the starting point for any 2017 rating list entry must be evidence which relates to the AVD, 1 April 2015, rather than from the previous rating list, as this was sourced from an entirely different pool of rental information. The rents passing were considered afresh at a revaluation when the VO sought to establish a tone of values. The whole point of a revaluation is to re-assess the demands of the hypothetical tenant and movements in the market leading to changes in rents. I attached no weight to the comparisons between lists.

14. The VO provided a single comparable property, i.e., Unit 10 Invicta Business Park, which was similar in size to the subject property and was built in 2005. This property was valued at 80/m^2. I considered Unit 10, which is the nearest property in terms of age and size to the subject, being built in 2013, to be a reasonable comparable and the subject property's value had been adjusted from £85/m^2 to £80/m^2 in line with Unit 10. The onus is on the appellant to prove that the list is incorrect. I found that the appellant had not provided any evidence of comparable properties to prove that Unit 10 was not a reasonable comparable property. Therefore, in the absence of any other truly comparable property this was the best evidence that could be used.

15. In conclusion, having regard to the physical state of the appeal property and its locality at the material date of 1 April 2017, and the evidence referred to, I am of the opinion that the rate per m^2 adopted for this industrial unit of £80/m^2 was fair and reasonable. In this appeal I have given

greater weight to VO's evidence. The VO had identified a similar industrial property which supported his valuation approach for the subject property. For the reasons outlined above, I found that no reduction in the subject property's assessment was warranted and I confirmed the RV of £15,000 in the compiled rating list as not being unreasonable.

16. In view of the foregoing, the appeal was unsuccessful and dismissed accordingly.

Date: 11 December 2020

Appeal number: CHG100046711