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; rental evidence; comparable assessments; appeal dismissed.

RE: Unit 11, Ashfield Way, Whitehall Estate, Leeds LS12 5JB

APPEAL NUMBERS: CHG100056994

BETWEEN:	Rhino Enterprises Ltd T/A Squirrel Storage	Appellant
	and	
	Mrs J Moore (Valuation Officer)	Respondent

PANEL: Ms J Routledge (Senior Member)
Ms J Barnes

CLERK: Mrs H Beresford

REMOTE HEARING ON: 27 October 2020

APPEARANCES: Mr J Abbot of Altus Group (Appellant's representative)
Mr C Diamond of Altus Group (Expert Witness)
Mr J Willoughby (for the Valuation Officer)

Summary of decision

1. The appeal was dismissed, and the assessment was confirmed at £39,750 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Unit 11, Ashfield Way, Whitehall Estate, Leeds LS12 5JB (the 'appeal property'), which was entered in the 2017 rating list as 'workshop and premises' at RV £39,750 effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Rhino Enterprises 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 £35,750 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 on Whitehall Estate, a well-established industrial estate with direct links to Leeds. It is of steel construction with an area of $867.73m^2$ and is held on a freehold basis; consequently, there is no rent passing.

6. The appellant's representative Mr Diamond, 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 property was not agreed. The valuation officer has adopted £46.00/m^2 in respect of the appeal property, but the appellant sought a reduction to £41.40/m^2.

Evidence and submissions

13. The appellant's submission included: a photograph of the subject property; valuations of comparable properties; a statement of the issues in dispute; agreements on three properties in the same valuation scheme; the current 2017 assessment; and a revised valuation in respect of the appeal property.

14. Mr Abbot contended that the unadjusted rate (UAR) of £46.00/m^2 should be reduced by 10% to £41.40/m^2 and provided evidence of three settlements for properties in the same valuation scheme which had been reduced by 10%, he believed that the whole valuation scheme may have been overvalued by 10%. He also referred to rental evidence for six comparable properties, he was of the opinion that these rents supported a reduction in the UAR to £41.40/m^2. Mr Abbot asked the panel to confirm RV £35,750 with effect from 1 April 2017.

15. The valuation officer's representative Mr Willoughby had provided various evidence including: a valuation of the property; a comparable rental summary; a response to the challenge; and various correspondence between the parties.

16. Mr Willoughby argued that the rating hypothesis did not refer to schemes and that they were used by the Valuation Office to inform and explain the basis of their valuations. Mr Willoughby argued that the rental evidence provided by the valuation officer supported a UAR of £46.00/m^2 and asked the panel to confirm the RV of £39,750.

Decision and reasons

17. 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 antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

18. 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 –
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> a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
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> 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."

19. 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. 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.

20. The panel noted that in this appeal there was no rental evidence for the subject property as it was held on a freehold basis. It therefore turned to the evidence of comparable properties which had been submitted by the parties.

21. The panel also noted Mr Abbot's argument that in some of the comparable properties the valuation officer had not included the area of the mezzanine floor in the main space area which had caused the UAR to appear higher. Mr Willoughby had argued that in practice only the total significant area was used when valuing industrial properties.

22. However, the panel did not place significant weight on the comparable properties cited by Mr Abbot. With regard to the six properties which had been submitted at the challenge stage, the panel found that, four of these properties: Unit C4, Wellington Road Industrial Estate at 348.19 m^2; Units A1 and A2, Wellington Road Industrial Estate at 412.58 m^2 and 382.56 m^2 respectively; and Unit F3, Copley Hill Trading Estate at 523.05 m^2 were considerably smaller than the subject. Furthermore, Units C2 +C3 Copley Hill Trading Estate did not support £41.40/m^2 even if the area of the mezzanine was included in the measurement, as Mr Abbott had contended it should be, as this resulted in a UAR of £43.64/m^2.

23. The panel noted that the appellant had cited comparable properties which had similar rents to the rent proposed for the subject property. Although these rents were close to the AVD, having been agreed in 2015, the panel noted that the properties were smaller than the subject property. A number of the comparable properties put forward by the valuation officer which were closer in size to the subject property showed higher rents per square metre which demonstrated the general value of properties of comparable size in the area.

24. With respect to the settlement properties submitted as late evidence, whilst they showed agreement of a 10% reduction for properties in the same scheme as the subject property, the panel held that these properties were significantly smaller than the subject and there was insufficient information on the properties to allow it to attach significant weight to the evidence.

25. The panel found the evidence provided by Mr Willoughby to be the more compelling. The comparable properties referred to by Mr Willoughby were of a similar age and size to the subject property ranging from 710.41 m^2 to 877.9 m^2. In particular, the panel found Unit 4 City Park to be the closest in comparison at 877.9 m^2 this property had an analysed rent of £49.93/m^2.

26. In conclusion, it was for appellant's representative to prove their proposal and that the rent figure should be reduced, the panel was not satisfied that he had. There was a lack of

credible evidence to convince it that a reduction in the assessment to £41.40/m^2 was warranted.

27. In light of Mr Willoughby's evidence, the panel held that the RV of £39,750 was fair and reasonable.

28. The appeal was therefore dismissed.

Date: 19 November 2020

Appeal numbers: CHG100056994