VALUATION TRIBUNAL FOR ENGLAND

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

RE: Unit B, Farringdon Business Park, Gosport Road, Alton, Hants, GU34 3DZ

APPEAL NUMBER: CHG100071616

BETWEEN:	Thomas (Hampshire) Limited	Appellant
and	Valuation Officer	Respondent

PANEL: Mr F Stuart (Senior Member)
Ms R Punia

CLERK: Mr D Jefferies

REMOTE
HEARING ON: 9 November 2020

APPEARANCES: Mr O Hamblin of Altus Group for the appellant
Mr A Demetriou for the Valuation Officer

Summary of decision

1. The appeal was allowed in part. The rateable value (RV) of Unit B, Farringdon Business Park, Gosport Road, Alton, Hants, GU34 3DZ, was reduced to £98,000, with effect from 1 April 2017.

Introduction

2. 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.

3. 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.

4. Mr Hamlin appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC). Mr Hamblin's declaration of truth included a statement that he was instructed on a contingency fee basis. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and 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.

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

6. Mr Demetriou, for the Valuation Officer (VO), appeared in the dual role of advocate and expert witness.

7. This was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was £101,000 from 1 April 2017. This was a compiled list appeal, so the material day was also 1 April 2017. The appeal was made on 20 February 2020 against the VO's Decision Notice of 6 January 2020 in respect of the appeal property. The VO's decision was to treat the appellant's proposal as not well founded and the existing entry of £101,000 RV was deemed as correct.

8. The subject hereditament comprises a warehouse unit of steel portal frame construction with profile metal cladding on the external walls and roof. The property is situated on Farringdon Business Park, approximately 3 miles south of Alton on the A32.

9. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the panel.

Issues

10. The matter before the panel was to determine the correct level of the RV for the appeal property, having regard to the weight to be attached to the rental evidence and levels of value placed on comparable assessments in the immediate and wider locality. Mr Hamblin, for the appellant, proposed a revised RV of £73,000, based on a valuation of £35/m^2. Mr Demetriou, for the VO, defended the existing RV of £101,000, which was based on £45/m^2.

11. Also, in dispute was whether or not an end allowance of 7.5% for fragmentation should be applied to the appeal premises, as proposed by the appellant. The VO contended that no allowance was warranted and sought dismissal of the appeal.

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

Decision and reasons

13. 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.

14. Firstly, Mr Hamblin informed the panel that at the date of the proposal the property was held on a freehold basis. However, he said there is a rent on Unit A, the neighbouring unit, from 1 June 2013, which devalues to £44.19/m^2. This was a rent review, but he felt that greater weight should be attached to it given that the majority of the units on Farringdon Business Park are held freehold title and there was a lack of new letting evidence. He said that Unit A has a RV of £27,250 based on £55/m^2, and has an area of 486.94m^2, which is significantly smaller than Unit B at 2,267.61m^2. He believed that the £/m^2 applied to the subject property was too high at £45/m^2 and sought a revised rate of £35/m^2 to reflect quantum.

15. Mr Demetriou provided the panel with a rental summary of two other rents of comparable properties on Farringdon Business Park, i.e. Unit 10 and Old Mill Part 1, where the rents are close to the AVD of 1 April 2015. He said that both rents devalue to in excess of the adopted rates of £55/m^2 and £60/m^2 respectively. He accepted that the comparable rental evidence is for properties which are all significantly smaller than the Unit B, but it does show that there were rents in the same valuation scheme near to the AVD that support the values applied in the other size band widths and he saw no reason to suggest this would be different for the size band width of 1,000m^2 to 2,500m^2 that the subject property has been placed in.

16. The panel is aware of the guidance given by the Lands Tribunal in the case of Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141, which dealt with the issue of the weighting of evidence. 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. In this case the subject property was held on a freehold basis. Consequently, there is no passing rent from which to consider an appropriate RV in accordance with the rating hypothesis.

17. The panel noted that there is a £10/m^2 difference between units Unit A and the subject property, Unit B, and this was due to quantum, as the subject property is significantly larger at 2,267.61m^2. Mr Hamblin had submitted no further rental evidence which supported his contention that Unit B should be valued at a base rate of £35/m^2. The subject property was built in 1955 – 1964 and refurbished in 1989. It has the lowest main space value at £45/m^2 which is less than any other of the 14 industrial units on Farringdon Business Park in the same valuation scheme. Apart from the subject property, all have an area of up to 500m^2 and are valued at £55/m^2 or higher. Having carefully looked at the 'basket of rents' and considered the comparable properties in this location, the panel accepted the VO’s contention that the rental

evidence, such as it is, on the development, supports a value of £45/m^2 for the subject property, which includes an element of quantum being applied for this significantly larger unit.

18. Secondly, Mr Hamblin contended that the property should also have an allowance of 7.5% to reflect the fragmentation from it being split into three sections by two load bearing walls. A copy of the floor plan was provided to the panel. He referred to his main comparable at 6-9 Woodlea Park, Alton. This property is a Business Unit and Premises and has a RV of £100,000. Mr Hamblin said that he had agreed a 2017 rating list challenge on this merged four-unit property for a 5% allowance. He explained that this property has one dividing wall within the building with a small opening in the wall for access. He said that the disability here is created by only one dividing wall and it was agreed with the VOA that a 5% allowance was appropriate. As the subject property has two load bearing dividing walls, he sought a higher allowance of 7.5%.

19. Mr Hamblin also referred to 3-5 Waterbrook Estate, Alton. This Warehouse and Premises has a RV of £126,000 and an allowance has been granted for 5% for two merged units with one dividing wall. Furthermore, he had agreed 2017 list challenge on 1B & 6-7 Culverin Square, Portsmouth, with an allowance for divided/split unit at 10%. This property was four separate units with access between each unit via small doorways. Mr Hamblin also provided the panel with details of allowances on other properties where he had agreed allowances of between 5% to 10% where similar circumstances exist. He sought a 7.5% allowance for the subject property.

20. Mr Demetriou did not agree that an allowance was warranted for the subject property. He said that although the subject property has two load bearing walls within the building it does not prevent access throughout the property, as can be seen by the appellant's internal photographs submitted with the challenge submission. Mr Demetriou did not believe the property is disadvantaged in any way as the appellant can still gain access to the whole width of the warehouse area via large openings within the dividing walls. He also challenged the appellant's representative's comparable properties where allowances have been granted. Mr Demetriou said that all of the appellant's comparable properties are either merged multiple units, whereas the subject property is not, or allowances have been applied for layout unique to those particular properties. Furthermore, he said that some of these properties are situated in completely different locations and all are in different valuation schemes.

21. The panel has heard what both parties have had to say regarding whether or not an allowance is appropriate for any perceived disadvantages of the subject property due to there being two load bearing walls within the building. Mr Hamblin had provided the panel with a number of comparable assessments where he had agreed allowances of between 5% and 10% for divided/split units or for properties with unique layouts where an allowance was considered appropriate. However, the panel was conscious of the fact that, other than the subject property, Mr Hamblin had failed to provide any photographic evidence of his comparable properties in which to support his contention that a 7.5% allowance was warranted. Moreover, as stated by Mr Demetriou, some were either merged multiple units, whereas the subject property is not, or allowances have been applied for layout unique to those particular properties. Many are situated in completely different locations and all are in different valuation schemes.

22. However, these comparable properties had received various allowances in their assessments for the reasons given. The panel found that it was appropriate to determine an allowance to reflect the fragmentation from being split into three sections by two load bearing walls, but the panel was not satisfied that Mr Hamblin has proved that an allowance as high as 7.5% was justified in this case. From the photographs provided, there are fairly wide openings within the walls that shows that fork lift trucks are able to access the whole width of the warehouse area. On the basis of such evidence as it had the panel concluded that a 2.5% allowance for

divided/split unit was warranted in this case. Adopting the VO's base rate of £45/m² and applying the end allowance as above, the panel arrived at a revised, rounded RV of £98,000. The appeal was accordingly allowed to that extent.

Order

23. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the VTE orders the Valuation Officer to alter the List within two weeks of the date of this order to show Unit B, Farringdon Business Park, Gosport Road, Alton, Hants, GU34 3DZ, at a Rateable Value of £98,000 with effect from 1 April 2017.

24. Any fee paid will be refunded in full in accordance with regulation 13E.

Date: 27 November 2020

Appeal number: CHG100071616