THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Warehouse and premises; Unadjusted base rate; Appeal dismissed.

RE: 11, DEPTFORD TRADING ESTATE,LONDON,SE8 5HY

APPEAL NUMBER: CHG100076446

BETWEEN:	Callancote Ltd	Appellant
	And	
	Andrew Corkish (Valuation Officer)	Respondent

PANEL: Mr G Coombes (Senior Member)
Miss E Blois

CLERK: Mrs K Clewer

ON: 4 December 2020

REMOTE HEARING

APPEARANCES:

Mr S Campbell of Altus Ltd as Advocate and Expert Witness for the appellant.
Mr A Hussain as Expert Witness for the Valuation Officer
Mr M Paterson as Advocate for the Valuation Officer.

Summary of decision

1. Appeal dismissed. The existing valuation is not excessive and the entry in the rating list is confirmed at £45,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal. The RV of the appeal hereditament was £45,000 with effect from 1 April 2017. This was a compiled list appeal, so the material day was also 1 April 2017. The challenge stage was completed on 8 August 2020. The challenge sought a reduction in RV to £40,500.

3. The subject hereditament was a warehouse and premises located in the London Borough of Lewisham close to New Cross Station. It had an area in terms of main space of 432.18m^2 and was valued at an unadjusted base rate of £100 per square meter (m^2).

4. 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.

5. 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.

6. Mr Campbell 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), his declaration of truth included a statement that he was instructed under a conditional fee arrangement.

7. Mr Campbell 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.

8. 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).

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

10. 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 before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

11. Prior to the hearing both parties had agreed in writing on a document of key rents and their respective analysis of these being introduced to assist the panel.

Issue

12. The issue between the parties concerned the RV of the appeal property and specifically, the £m2 to be adopted. Mr Campbell sought a £m2 of £90 and a RV of £40,500. Mr Hussain, for the VO, sought to defend the existing RV of £45,000 which was based on a £m2 of £100.

Decision and reasons

13. The task for the panel was 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; otherwise similar properties would have different rateable values if numerous dates were used, as rental values fluctuated over time.

14. 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"

15. The appeal property had been let on 24 March 2014 at a rent of £44,000pa under a lease renewal. The panel considered this to be too far removed from the AVD to provide reliable assistance. However, it was acknowledged that the rent on the appeal property had been analysed by Mr Campbell to £96.80 m^2 and by Mr Hussain to £107.49m^2. This would indicate that £100m^2 was a fair reflection of the rental value at this time.

16. In line with the decision in Lotus and Delta v Culverwell (VO) [1976] RA 141 , the panel considered the comparable rents put forward by the parties.

17. 12 Deptford Trading Estate had been a new letting on the 4 April 2014 on a five-year term at a rent of £39,500 per annum. The property measured 395.68m^2. According to Mr Hussain there was the equivalent of a 6-month rent free period at half rent over 12 months. He had analysed this rent to £90.67m^2 which included growth from April 2014 to April 2015. Mr Campbell had analysed this rent to £88.90m^2 which he contended being a new letting on a fully repairing and insuring basis (FRI) supported £90m^2 for the appeal property.

18. 17 Deptford Trading Estate was a new letting for a five-year term commencing 6 May 2015 at £38,489 per annum. This was on a FRI basis with a one month rent free period for fit out and three months rent free for inducement. The property measured 488.71m^2. Given that some services were included within the rent and car parking needed to be adjusted for Mr Hussain had analysed this rent to £114.86m^2. Mr Campbell argued that this property was of a higher specification than the appeal property being used for food production. He had analysed the rent at £105.23 m^2.

19. 15 Deptford Trading Estate measured 234.59m^2. A new letting had commenced on the 14 July 2014 at a rent of £25,640 pa with 6 months rent free period and half rent for 12 months and was on FRI terms. Mr Hussain had analysed this rent to £102.90m^2. The unadjusted rate for this property had been reduced by the VO from £115m^2 to £103m^2. Mr Campbell had analysed this rent to £98.64m^2.

20. Given the above rents the panel did not consider the main space price of £100 m2 to be unreasonable for the appeal property. Whilst Unit 17 was used for food manufacturing the panel considered that vacant and to let this remained an industrial unit on the same estate and was therefore a good comparable.

21. It was noted that the main space price on Units 2 and 9 Deptford Trading Estate had been reduced from £99.90 m^2 and £100m^2 respectively. However, these were larger units of 1248.94m^2 and 905.87m^2 and it was possible that quantum played a factor in the rent a hypothetical tenant would pay.

22. Numbers 3 and 10 Deptford Trading Estate were similar in size to the appeal property at 419.86m^2 and 488.21m^2. These had both been subject to lease renewals in 2014. The rents had been analysed by Mr Hussain to £105.15m^2 and £106.43m^2. Mr Campbell had analysed the rents to £105.79m^2 and £98.20m^2 . Whilst less weight could be attached to lease renewals the panel considered that these rents supported £100m^2 as not being unreasonable for the appeal property.

23. Consequently, having taken all the evidence into account, it was the panel's view that the main space price on the appeal property would sit somewhere between the rental analysis of 12 and 17 Deptford Trading Estate which was supported by the remaining basket of rental evidence provided.

24. Therefore, the panel considered that the rate of £100m^2 adopted by the Valuation Officer in the current assessment appeared fair and reasonable and the appeal was dismissed.

Date: 22 December 2020

Appeal number: CHG100085717