THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating Appeal – Valuation – the percentage reduction to be applied to the lower ground floor/basement office – comparable properties – appeal allowed

Re: Lower Ground and Ground Floor, 66a Royal Mint Street, London, E1 8LG

APPEAL NUMBER: CHG100077444

BETWEEN:	Mays Brown Solicitors	Appellant
	and	
	The Valuation Officer	Respondent

PANEL; Mrs L Bryning – Senior Member

Mr C Bryan

CLERK: Mr A Jolly

REMOTE HEARING: Wednesday 2 December 2020

APPEARANCES: Mr C Mann of Altus Group representing the occupier (appellant)

Mr C Cates representing the Valuation Officer (respondent)

Summary of decision

1. Appeal Allowed. The Rateable Value of £54,000 was determined.

Introduction

2. This appeal has been brought in respect of the following: An appeal dated 7 September 2020 against the Valuation Officer’s Challenge Case Decision Notice of the 29 July 2020.

3. 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.

4. 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.

5. 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.

6. Mr Mann 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 Mann's declaration of truth included a statement that he was instructed under any conditional fee arrangement.

7. Mr Mann 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.

Preliminary Issue

10. Mr Mann wished to submit a presentation bundle to the panel which he stated contained no new evidence but was to assist the panel during the hearing and their deliberations. He wished for the panel to determine, as per the Tribunal Business Arrangements contained in the Consolidated Practice Statement, whether or not his presentation bundle, which he provided on 30 November 2020, could be submitted.

11. Mr Cates raised an objection to its inclusion as this was a 2017 Rating Appeal and all evidence, unless new evidence which had been submitted in accordance with the Standard Direction, should have been submitted when lodging the appeal.

12. The Clerk referred to the Consolidated Practice Statement and 'Standard Directions for 2017 List and later NDR appeals' which stated:

    Appeal information and evidence

    1) The appeal will be decided on the basis of the documentation provided at the time the appeal is made (unless new evidence is allowed by the Tribunal). It is therefore important that evidence and information that either party wishes to rely on when the appeal is decided is provided with the appeal.

13. The panel having considered the Consolidated Practice Statement and Standard Direction considered that the appeal must be considered on the evidence submitted when the appeal was lodged and therefore, as the presentation bundle did not include new evidence, it would not be admitted to the hearing.

Issues

14. The issue before the panel concerned how the lower ground floor/basement of the appeal hereditament should be valued. The appellant's representative considered it should be valued at 50% in terms of main space (ITMS) whilst the Valuation Officer considered it should be valued at 75% ITMS.

Evidence and submissions

15. Mr Mann explained that the appeal hereditament was an office and premises located on the ground floor and basement of a five storey 1800s building. The upper floors were in residential use. He understood the property had originally been a public house but converted in 2008. The appeal hereditament was held on a long term lease at a peppercorn rent and therefore in effect was freehold. It had originally been placed in the 2017 Rating List at £63,500 and was reduced by the Valuation Officer at Challenge stage to £62,500 but he considered the RV should be £54,000.

16. He informed the panel that the issue concerned the basement area and how it should be valued. He stated that from the outside of the property there were windows at pavement height but these were at floor level on the ground floor and not windows to the basement area. There were little glass blocks in the pavement which gave limited light into the basement and the only other natural light source was from the stairwell leading from the ground floor to the basement.

17. Mr Mann considered that the Valuation Officer, who he understood had not inspected the property, believed the pavement level windows were within the basement area and for that reason had valued the basement at 75% of the price per m² adopted for the ground floor.

18. In support of his contention that 50% of the ground floor price per m² should be applied he provided details of other properties in the locality that had offices within the basement area and where the Valuation Officer had valued the basement at 50% of ITMS or had reduced the assessment to 50% of ITMS. He provided photographs of his comparable properties and the appeal hereditament to support his contention.

19. In answer to a questions Mr Mann stated that the stairwell, which provided borrowed light into the basement, was approximately two and half metres long and one metre wide. He also confirmed that the only other access to the basement was via a staircase which acted as a fire escape and which should only be used in emergencies.

20. Mr Cates informed the panel that he was acting as advocate and had not inspected the property but considered he was able to provide expert technical advice due to his experience.

21. He stated that the description of the floor was not the sole indicator of the value placed on that floor for rating purposes and therefore even if considered as a basement it was not automatic that it would be valued at 50% ITMS. He explained that you had to consider the attributes of each floor of each property when valuing.

22. He considered that factors such as the quality of the office had a bearing on the value to be placed on the floor. He considered that appeal hereditament was of good modern quality with exposed brick and wooden floor and a good wide staircase which provided borrowed light from the ground floor and light wells with display items. He stated that many properties with basements are used for storage or post rooms with access to the rear of the premises via goods lifts etc

23. Mr Cates stated that the burden of proof was upon the appellant and that he had not been provided with any rental evidence to support the contention that a lesser value should be placed on the lower ground floor. He requested the panel confirm £62,500 with effect from 1 April 2017 and dismiss the appeal.

24. In questions Mr Cates confirmed that he had not inspected the property but that he had experience valuing similar properties in the locality and that he did not know when the property was last inspected by the Valuation Office. He also confirmed that all the basement areas in the appellant's submission had been valued at 50% ITMS.

Decision and reasons

25. The panel considered that as the lower floor of the appeal hereditament was below street level it was more akin to a basement than a lower ground floor and therefore should be described as such.

26. The panel then went on to consider how the basement should be valued. The appellant's representative considered that it should be valued at 50% ITMS whereas the Valuation Officer had valued it at 75%.

27. As the appeal property was held on a lease with a peppercorn rent there was no rental evidence provided for that property. Neither party provided any other rental evidence to support their contentions.

28. The appellant's representative had provided details of other properties where the basement area had been valued at 50% ITMS. In the Challenge Case Decision Notice the Valuation Officer had stated the comparable properties were different to the appeal property as the comparable properties were completely underground with minimal natural light from

lightwells as opposed to windows. The panel considered that the basement of the appeal property was all below pavement level it was also underground and that the windows within the façade of the building where actually at floor level of the ground floor and not within the basement and therefore similar to the comparable properties. The panel noted that due to the position of the stairwell the appeal property did have borrowed light but this was limited to the area surrounding the stairwell.

29. The panel also noted that the only access to the basement was via stairs and that there was no lift between the floors and therefore limited access to the basement area.

30. The panel consider that the comparable properties cited by the appellant's representative were of assistance. Whilst there may be some differences between the comparable properties and the appeal hereditament, they all were basements with minimal natural light. The panel considered that the basement should be treated similarly to the comparable properties cited by the appellant's representative and that 50% ITMS was more appropriate.

31. As there were no other issues the panel allowed the appeal and determined RV £54,000 with effect from 1 April 2017.

Order

32. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £54,000 with effect from 1 April 2017 within two weeks of the date of this order. The ratepayer is also entitled to a refund in fall of the fee paid in accordance with regulation 13E (1)(a) of the Non Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009.

Date: Wednesday 16 December 2020

Appeal number: CHG100077444