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 allowed in part.

RE: Ground Floor, Browning Works, Tilling Road, London NW2 1LJ

APPEAL NUMBER: CHG100077793

BETWEEN:	Browning Jones and Morris Ltd	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

PANEL: Mr M Smith (Senior Member)
Mrs F Duggan

CLERK: Mrs H Beresford

REMOTE HEARING ON: 8 December 2020

APPEARANCES: Mr M Evans of Altus Group (Appellant’s representative)
Mr J Balogun (for the Valuation Officer)

Summary of decision

1. The appeal was allowed in part, the assessment was reduced to rateable value (RV) £100,000 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Ground Floor, Browning Works, Tilling Road, London NW2 1LJ (the ‘appeal property’), which was entered in the 2017 rating list as ‘workshop and premises’ at RV £124,000, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Browning Jones and Morris 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 £87,500 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 a non-estate industrial unit which comprises a workshop and premises with an overall area of 1184.07m^2. It is located on Tilling Road, London and was built pre 1965. The property was held freehold at the antecedent valuation date (AVD).

6. The appellant's representative, when 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 had adopted £100.00/m^2 in respect of the appeal property, but the appellant sought a reduction to £70.00/m^2.

Evidence and submissions

13. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice, rental evidence summaries; appellant's challenge submission; photographs and location plans of the appeal property and comparable assessments.

14. Mr Evans contended that the current unadopted main space rate applied to the appeal property's rating assessment of £100.00/m^2 is excessive. He argued that the RV of £124,000 shown in the 2017 Rating List with effect from 1 April 2017 does not represent the rental value of the hereditament under the rating hypothesis at the AVD 1 April 2015. Mr Evans explained that at the AVD the property was held freehold by the appellant and therefore he had provided details of comparable properties which he believed supported a base rate of £70.00/m^2 for the subject property.

15. He also argued that the property's scheme has seen increases of 50 - 60% between the 2010 and 2017 rating lists which he believed is excessive when compared with increases on more modern non estate industrial units in Barnet which had increased by 15 - 20%. Mr Evans asked the panel to confirm an RV of £87,500 for the appeal property.

16. Mr Balogun, the Valuation Officer's representative contended that the evidence of two successful challenges referred to by Mr Evans, should be disregarded as he stated that the properties were considerably larger than the subject property.

17. Mr Balogun contended that of the three comparable properties cited by Mr Evans he had been unable to attach significant weight to; the first one as the rent had been agreed too far from the AVD. He conceded that the other two properties referred to did command some weight as they are good size matches for the subject property and have effective dates closer to the AVD. However, he argued that the two comparable properties cited by the Valuation Officer are on the same industrial estate as these two properties and support the current tone.

18. Mr Balogun explained that in light of the evidence provided by the appellant the Valuation Officer had contacted the appellant prior to the hearing with a revised valuation of £85.00/m^2 with an RV of £106,000, however the appellant had not accepted this offer and continued to argue for a base rate of £70.00/m^2. Mr Balogun asked the panel to confirm an RV for the appeal property of £106,000.

Decision and reasons

19. 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,1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

20. 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 –
>
> a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
>
> 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"

21. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 had been referred to by both parties this decision 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.

22. The panel noted that there was no rental evidence for the subject property and that consequently both parties had relied on rental and assessment evidence of comparable properties.

23. Mr Evans had argued that other properties in the same scheme as the subject had been reduced in value at the challenge stage, however, the panel were aware that the subject property was significantly smaller than those properties cited being only 1184.07m^2. This was in comparison to 49 Moxon Street, which was 1986.85m^2 and 100 Colindeep Lane which was 1747.59m^2. Whilst the panel accepted that these properties had been reduced in value from £100.00/m^2 to £70.00/m^2 and £78.27/m^2 respectively it found that some of the reduction may have existed for quantum.

24. The panel found the comparable properties presented by the appellant to be compelling evidence. In particular, Warehouse, Front Left, Allum Way, which was 1277.75m^2 with a rent agreed in July 2014 and a base rate of £73.94/m^2, and Unit 3 Brunswick Industrial Park with an area of 1117.94m^2 and a base rate of £81,95/m^2 derived from a rent agreed in September 2014.

25. The panel noted Mr Evans' comparison with Units 14 and 15 Claremont Way Industrial Estate situated on a 1960-70's estate in the same industrial area as the subject. This property was of the same age, eaves height and locality as the subject. Mr Evans argued that this property had maintained its 2010 rating list value of £65.00/m^2 compared with the subject which has increased from £65.03/m^2 in the 2010 list to £100.00/m^2 in the 2017 rating

list. However, the panel was aware that it was not appropriate to make comparisons between the 2010 and 2017 rating lists.

26. The panel also noted the evidence of comparable properties presented by Mr Balogun. He had provided a rental summary for two properties with rents close to the AVD. In particular, Unit 13 Brunswick Industrial Park, which had a rent agreed on 1st July 2015, the property measured 1376.03m^2 with a rent of £140,959 per annum and a base rate of £96.00/m^2. As well as this, 14 Brunswick Industrial Park had an area of 1132.98m^2 with a rent of £120,000 per annum agreed 1 January 2016 and a base rate of £92.98/m^2.

27. Taking into account all of the evidence of comparable properties provided, the panel decided that an unadjusted base price of £80.00/m^2 was fair and reasonable for the subject property, and therefore a revised valuation of £100,000 was determined as follows:

Floor	**Description**	**Area m^2/unit**	**Factor**	**Price per m^2/unit**	**Value £**
Ground	Warehouse	1074.39	1.0	80.00	85,951
Ground	Office	109.68	1.2	96.00	10,529
Total					**96,480**
Parking Spaces			13		3,640
Total					100,120
			Rateable Value		**100,000**

RV say £100,000 with effect from 1 April 2017

28. The appeal is allowed in part, and the appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

29. Under the provisions of paragraphs (4) and (9) of Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Tribunal orders the Valuation Officer to alter the List within two weeks of the date of this order to show a revised Rateable Value of £100,000 with effect from 1 April 2017.

Date: 4 January 2021

Appeal numbers: CHG100077793