VALUATION TRIBUNAL FOR ENGLAND

Non Domestic Rating Appeal; 2017 Rating List; Workshops & Premises, comparable properties; Lotus & Delta v Culverwell (VO) [1976] RA 141; Price per m2; Appeal Dismissed.

RE: Libra House, West Street, Barnsley , S70 5PG

APPEAL NUMBER: CHG100078418

RE:	Amity International Ltd	Appellant
	and	
	Ritchie Roberts	
	Valuation Officer	Respondent

PANEL: Ms L Sharkey (Chairman)
Mr A Wheeler

REMOTE HEARING ON: 10 March 2021

APPEARANCES: Mr J Metcalfe of Metcalfe Commercial – Appellant's representative

Ms R Anderson for the Valuation Officer (Respondent)

Summary of Decision

1. The appeal is Dismissed.

Introduction

2. The appeal arose following a challenge against the appeal property's entry in the 2017 Rating List in respect of Workshop and Premises, Libra House, West Street, Barnsley , S70 5PG at RV £31,500 with effect from 1 April 2017. The appellant's challenge to the Valuation Officer was made on 5 March 2019, the Valuation Officer's challenge decision was given on 25 June 2020 and the appellant's appeal to the Valuation Tribunal was made on 21 December 2020.

3. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as that statement or evidence having been overlooked by the panel.

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. 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

7. Mr Metcalfe 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 Metcalfe’s declaration of truth included a statement that he was instructed under a contingency based fee arrangement.

8. Mr Metcalfe 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.

9. 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).

10. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

11. Ms Anderson on behalf of the Valuation Officer (VO) stated she was acting as both advocate and expert witness in valuation.

12. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

13. The appeal hereditament is 1226.66 m2 in size being two storey with workshop, mezzanine and office areas being constructed in 1986 of brick and concrete construction . It has 478 m2 of rough surfaced fenced land .

Issue

14. The issue between the parties concerned the RV of the appeal property and, specifically, the rate per m² that should apply. Mr Metcalfe, for the appellant, sought a reduction to £22,500 RV based on £21.53 per m². Ms Anderson, for the VO, defended the existing RV of £31,500, which was based on £29.50 per m² and sought dismissal of the appeal.

.**Evidence and submissions**

15. The Appellant's representative considered that the rateable value of the appeal property was incorrect. He considered that based on the adjusted passing rent, comparable rental evidence and agreed m2 on the comparable properties within a different valuation scheme, the rate should be reduced from £29.50 m2 to £21.53 m2 and he sought a reduction in the rateable value to RV £22,500- with effect from 1 April 2017.

16. The Valuation Officer's representative considered that, based on her rental evidence submitted, the appeal properties had a prevailing price of £29.50 per £m2 with a 5% addition for 8m eaves height and an allowance of 15% for shared/narrow access, therefore attributed to the same valuation scheme for properties in the same locality and age, based on the size matrix in place.

17. Consequently, the Valuation Officer's representative sought a dismissal of the appeal.

Decision and reasons

18. The panel is satisfied that, for the purposes of the 2017 Rating List, it must seek to assess the value of the appeal property as the open market annual rent that could reasonably be achieved for it at the antecedent valuation date of 1 April 2015, as set out in the statutory definition of rateable value provided by paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 as amended by section 1(2) of The Rating (Valuation) Act 1999.

19. The statutory definition which is set down in Paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988.

20. Rateable Value is defined 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 the assumption that:

(a) the tenancy begins on the day by reference to which the determination is to be made;

(b) 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; and

(c) the tenant undertakes to pay all usual tenants rates and taxes and to bear the cost of repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command that rent mentioned above.

For the purpose of determining the rateable value of a hereditament for both compilation and maintenance of a rating list, the day by reference to which the determination is to be made (the valuation date) is by paragraph 2 sub-paragraphs (3) and (4) of Sch. 6 either:

(a) the day on which the list must be compiled, or

(b) such day preceding that day as may be specified by the Secretary of State by order in relation to the list.

21. For all Rating Lists compiled post 1990 a day preceding the compilation date has been set, in all cases the date precedes the compilation date by 2 years and has become known as the Antecedent Valuation Date (AVD).

22. The Antecedent Valuation Date of 1st April 2015 has been specified for England for the purpose of the 2017 Rating List in accordance with the Rating Lists (Valuation Date) (England) Order 2014.

23. Under the principles established in Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA 141, the panel noted that there was a rent passing on the appeal property of September 2012 (VO) and January 2013 (Rep) for a 7 year term with 7 months rent free on a stepped rent of £20,000 in years 1 and 2; £22,500 at years 3 and 4; £27,500 at years 5 and 6 and £30,000 at year 7. The representative considered that this stepped rent analysed at £21,593 with a £m2 of 20.53.

24. The Panel considered that little weight should be given to this rental evidence as it was remote from the AVD and required too many adjustments to conform to the hypothetical tenancy and therefore it was not conclusive evidence as to the value of the appeal property.

25. Consequently, the panel referred to rental evidence submitted by the appellant's representative from industrial properties in the locality at Unit 4 Darton Business Park, Barnsley Road S75 5QX built in 1960s , 871.50 m2 in size with a rent from July 2016 which analysed at £29.97 m2; Park House Lane, Sheffield S9 1XA built in 1970-80s , 1882 m2 in size with a new rent which analysed at £15.60 m2 ;Acorn Phase 3 , 95 High Street Barnsley S72 7BD modern unit ,425 m2 in size with a new rent for 3 years from December 2017. It analysed at £35.37 m2; Unit 5 Thurnscoe Business Park, Rotherham S63 0BH built in 1993, 554 m2 in size with a rent of £15,000 from October 2014 which analysed at £26.87; Unit 5 Dearne and Dove Works , Barnsley S70 5PG . This property is on an estate adjacent to the appeal property . It is let on a periodic tenancy at £600 per month from October 2014 which equates to 20.02 m2. It is 359.59 m2 in size, built 1950s. Unadjusted rate £26.00 m2 actual rate £22.90 to reflect heating, insulation and quality. In a different valuation scheme; Unit 4 Dearne and Dove Works , Barnsley S70 5PG. This property is on an estate adjacent to the appeal property. It is 548 m2 in size, built 1950s. It is let on a periodic tenancy at £4200 per annum from October 2014 which equates to £15.17 m2;.The VO suggests that the is landlord responsible for all repairs and insurance. Unadjusted rate £28.25m2 actual rate £27.54 to reflect heating. In a different valuation scheme; Barnsley Tyre Services , West Street, Barnsley S70 5PG. This property is 460 m2 in size, built 1950s. Unadjusted rate £27.25m2 actual rate £26.57 to reflect insulation. In a different valuation scheme as it is used as vehicle repair workshop; Booths Manufacturing , West Street, BS70 5PG. This property is 346 m2 in size, built 1970s. Unadjusted rate £31.00m2 with a 10% allowance for access. In a

different valuation scheme; Fall Bank Industrial Estate, Agreed for Unit 9A and 9, Plot 5 at £39.50 m2 for 1985 built unit of 1679.96 m2 based on variations for size matrix.

26. The appellant's representative contended that based on the basis for several of his comparable properties, the appeal property should be valued at a lower value and the m2 rate should be reduced from £29.50 m2 to £21.53 m2 for the appeal property.

27. The panel was referred to rental evidence submitted by the VO from comparable properties in the locality at Units 1-5B, Plot 21 Carlton Ind. Estate, Humberside Way, Barnsley, S71 3RN, Plot 18 Whalley Road, Barnsley S75 1HT; Plot 25 Unit 2 Barkston Road, Barnsley S71 3HU, Unit 12 Beevor Street Barnsley, S71 1HN; Unit 17 Fall Bank Ind. Estate,Barnsley S75 3LS; Alcora Tiles Ltd , Sandygate Lane, Barnsley S71 5AW; BA Haxby (Barnsley)Ltd, Stanley Road, S70 3PG; Unit 9A and 9, Plot 5 Silkstone Road, Fall Bank Industrial Estate Barnsley S75 3PG and I S Maintenance Ltd, Wakefield Road, Barnsley S71 1PA. This rental evidence was for leases agreed between 1 September 2012 to 1 November 2014 for these units which were between 451.30 m2 – 1532.11 m2 in size and had adopted values between £28 m2 - £33.15 m2.

28. Additional assessment evidence on 6 other industrial properties in the immediate locality with differing ages showed £m2 between £22.50- £31.10 and 14 comparable properties built between 1980-1990 between £1020.76 m2 -£1679.96 m2 in size with adopted values between 22.43m2 - 40m2. Moreover, there was an agreement on Unit 9A and 9, Plot 5 Silkstone Road, Fall Bank Industrial Estate Barnsley S75 3PG at£ 38.50 m2.

29. The panel noted that whilst not all of the rental evidence was of rents agreed near to the AVD, the comparable properties of the Valuation Officer came from the same locality and were a similar age. These rents were considered by the panel to be reliable in establishing the level of rent that might otherwise be achievable for the appeal properties at 1 April 2015 in this locality and the figure of £29.50 m2 did not appear unreasonable.

30. Moreover, the panel considered that most of the comparable properties referred to by the representative were significantly smaller and older than the appeal property and, were in a different valuation scheme. Consequently, less weight was given to these comparable properties.

31. Reference was made by the appellant's representative to the incorrect valuation scheme being adopted for the appeal property as a reason why the £m2 rate for the appeal property was incorrect. However, the panel found no support for this contention as the purpose of the scheme was to collect evidence based on similar properties of the rental levels, same age , construction within a particular locality.

32. The Panel was aware that the purpose of a revaluation exercise, which in this case took place five years apart, was to value each hereditament appearing in the List completely afresh taking into account the rental values and economic factors at the antecedent valuation date of 1 April 2015 and the physical factors at the material date and it was not a mathematical exercise whereby every entry gets uplifted to the same degree.

33. The Panel in taking account of the evidence placed the greater weight on the Valuation Officer's evidence as it was of properties in close proximity to the appeal property and

reflected prices based on the sizes of the units, which did not indicate that a price per m2 of 29.50 was excessive for a unit of this size.

34. Consequently, the appeal was dismissed.

Date: 6 April 2021

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