THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rates; appeal against the entry in the rating list at 1 April 2017; hangar; rental evidence; comparable assessments; appeal dismissed.

RE: Hangar SE46, Gloucestershire Airport, Cheltenham, GL51 6SP

APPEAL NUMBER: CHG100080056

BETWEEN:	Aeros Global Ltd	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL: Mr M H Smith (Chairman)
Mr M Nwosu

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.2 on 18 February 2021

APPEARANCES: Mr J Cooper (Appellant's representative)
Mr J Righton (Respondent's representative)

Summary of decision

1. Appeal dismissed. No change was made to the rateable value of the property.

Introduction

2. This appeal has been brought in respect of Hangar SE46, Gloucestershire Airport (the 'appeal property') which was entered in the 2017 rating list as 'hangar and premises' at rateable value £28,250, effective from 1 April 2017.

3. The appellant had made a proposal to the Valuation Officer on the grounds that the entry shown in the rating list on 1 April 2017 was wrong and that it

should be reduced to rateable value £13,450. However, no alteration was made to the rating list by the Valuation Officer.

4. In accordance with regulations[1], an appeal was made to the Valuation Tribunal for England (VTE) on the grounds that the valuation for the appeal property was not reasonable. The description of the appeal property was also questioned.

5. The President of the 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 relevant legislation[2]. The VTE may determine the form of any hearing.

6. Therefore, in pursuance of the relevant regulation[3] 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.

7. To assist Mr Cooper, who was not a professional representative, and with the agreement of the parties, the tribunal panel varied its model hearing procedure and invited the Valuation Officer's representative to present his evidence first.

8. 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 item of evidence, should not be construed as it having been overlooked.

Issues

9. The issue in dispute concerned the rateable value of the appeal property. It had been assessed by the Valuation Officer at £53.91/m^2, adjusted to £52.56/m^2 to reflect the lack of heating. The appellant believed that its unit price should be reduced to £25/m^2 in line with a number of comparable properties from the same airport. The Valuation Officer considered the rateable value reasonable having regard to the rent in respect of the appeal property.

10. The appellant had also queried the description of 'hangar and premises', stating that there were no other premises.

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[1] The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, regulation 13A.

[2] 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).

[3] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).

Evidence and submissions

11. The appeal to this Tribunal included correspondence between both parties and the evidence which they had exchanged. It included:

    - a challenge proposal which referred to the rating assessments of other hangars at the airport;
    - the Valuation Officer's initial response and challenge decision which included rental evidence and analysis in respect of the appeal property and other properties at the airport;
    - the appellant's appeal to this Tribunal.

12. Mr Righton appeared in a dual role of advocate and expert witness for the Valuation Officer. He stated that his primary duty in giving expert evidence was to the Tribunal and that he was not instructed under a conditional fee arrangement or other success related fee. He said he had been a member of the Royal Institution of Chartered Surveyors (RICS) since 1988. His work mainly involved valuing industrial properties in the South East region. He explained that he had not been involved in producing the Valuation Officer's decision notice for this case, but stated he was confident that the decision was correct.

Decision and reasons

13. The airport had a number of hangars and buildings of mixed ages. The airport's history on this site dated back to 1936.

14. The appeal property was an unheated hangar that had been constructed in 2015. It was a steel frame building with aluminium sides and a roof, some of which was plastic coated. It had capacity to store approximately seven aircraft. There was currently a flight simulator, toilet and five aircraft at the appeal property. As such, Mr Cooper had questioned the description appearing in the rating list, stating that there were no "premises".

15. However, Mr Righton said that descriptions of properties appearing in the rating list generally included "and premises", stating that it was an "include all" thing. He assured Mr Cooper that the description in the rating list did not affect the rateable value.

16. The panel accepted Mr Righton's explanation, recognising that properties customarily had this terminology tagged onto the description. The appeal property's online valuation simply showed it had been assessed at £52.56/m^2 on a gross internal area of 537.98m^2.

17. To understand what rateable value had to be determined for the appeal property it was necessary to have regard to 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;
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> (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".

18. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

19. The 2010 rating list entry for the appeal property had been determined by the Valuation Officer at rateable value £25,250. The 2010 list description had been queried but no challenge had been made to the entry. Mr Righton said that it was generally accepted that there had been rental growth between the AVD for the 2010 and 2017 rating lists (1 April 2008 and 1 April 2015). The panel noted that no evidence was provided to show any rental growth.

20. Mr Righton highlighted the Lands Tribunal decision of *Lotus and Delta Ltd* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA141, which provided guidance on the weight to be attached to rental and assessment evidence. The rent was considered the starting point and more weight was attached to those rents closest to the statutory criteria of rateable value and which were agreed closest to the AVD. Other rents were also considered in order to confirm or otherwise the level of value indicated by the actual rent of the appeal property. Other comparable assessments were also relevant but to a lesser degree. In light of all the evidence an opinion could be formed on the rental value of the appeal property, the weight to be attributed to the different types of evidence depending on one hand on the nature of the actual rent and, on the other hand, the degree of comparability found in other properties. In those cases where there were no rents available for comparison, a review of other assessments may be helpful, but in such circumstances it would clearly be more difficult to reject the evidence provided by the actual rent.

21. Adopting the rent for the appeal property as the starting point, the panel noted its proximity to the AVD. The rent was £30,000 from 1 December 2015, on internal repairing and insuring terms. The Valuation Officer had adjusted this to £28,500 as Schedule 6 required the rateable value to reflect a hypothetical tenancy with the tenant being responsible for all repairs. The adjusted rent devalued to £53.33/m^2.

22. The panel considered the actual rent in respect of the appeal property to be by far the best evidence available. It reflected the appeal property's age and location, was close to the AVD, and had required little adjusting to conform with the statutory rating hypothesis.

23. The panel then considered the other rental evidence provided. Using the Valuation Officer's analysis, the panel noted there was a range from £34.71/m^2 to £88.33/m^2. The more modern units were towards the higher end of the range. The highest price was for SE31, constructed in 2004, but the panel noted from Mr Cooper that this was in a different market because of its larger office space.

24. The next highest rent was for Hangar SE13 which devalued to £46.83/m^2. The rent was very close to the AVD. This hangar had been constructed in 2012 and was closest to the appeal property in terms of age. However, this unit was more than double the size of the appeal property, so the rental evidence did not support the appellant's case for a reduction.

25. The other rents were in respect of older properties or had unusual terms, such as SE4 which was set as a percentage of open market value.

26. The panel then considered the rating assessment of other hangars at the airport site. The panel noted the list provided by Mr Cooper which showed numerous hangars assessed at £25/m^2. The Valuation Officer had dismissed the evidence on the basis that they were older units. The Valuation Officer had stated that some of these had been built pre-1900 or 1900-1918. As the airport started in 1936, Mr Cooper was understandably not satisfied with the response. The panel thought he was correct to question the rates, as there was a perception when looking only at the on-line information, that the appeal property was being unfairly assessed.

27. Mr Righton also acknowledged that the age details held by the Valuation Officer could not be correct. The other rating assessments would need to be reviewed. There was to be an inspection of the site to review the information held, but Mr Righton stated that the current pandemic had delayed this.

28. The panel noted the issue with the Valuation Officer's records for the site. Overall, the panel found that the rating list entries for comparable assessments were not influential given the questions over age and the lack of other comparable properties of a similar age.

29. Unfortunately for the appellant, the panel was unable to reach a conclusion that the rateable value of the appeal property was unreasonable. Ultimately,

the rent on the appeal property was the best evidence available and as it was higher than the rateable value adopted, no reduction in rates were justified.

30. In view of the foregoing, the appeal was therefore dismissed.

Date: 8 March 2021

Appeal number: CHG100080056