THE VALUATION TRIBUNAL FOR ENGLAND

Summary of Decision: non-domestic rating appeal; Accuracy of Compiled list RV in 2017 Rating List; Business Unit & Premises; price per m² to be adopted; how air conditioning should be treated; rental evidence; Appeal Partly Allowed

Re: 4 Metro Industrial Centre, St Johns Road, Isleworth, Middx TW7 6NJ

APPEAL NO: CHG100080634

BETWEEN:	Castleline Ltd	Appellant
	and	
	Valuation Officer	Respondent

PANEL: Mr P Hickson (Senior Member)
Miss E Blois

CLERK: Mr G Wayman

REMOTE HEARING: 30 October 2020

APPEARANCES:

Mr A Hair of Altus Group representing the appellant
The Respondent Valuation Officer was represented by Mr J Balogun.

Summary of Decision

1. The appeal is partly allowed and the panel confirms a revised RV of £22,750 with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was originally £23,500 from 1 April 2017, with a description of Business Unit and Premises. This was a compiled list appeal so the material day was also 1 April 2017. The VO's decision was to treat the appellant's proposal as not well founded and the entry of £23,500 RV was deemed as correct.

3. The panel was informed that the appeal property was located on an established business park, known as The Metro Centre, off St John's Road, Isleworth, close to its junction with London Road (A315), approximately mid-way between Hounslow and Brentford. Isleworth mainline station is a short walk away with the nearest underground stations being Osterley and Hounslow East (Piccadilly line). The main Great West Road (A4) is within one mile, both the A4 and M4 motorway offer access to Heathrow Airport, the M25 motorway and Central London. The parties had agreed that the appeal property was 170.31 m² in size the warehouse on the ground floor being 87.50 m² and the office on the first floor being 82.81 m².

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 Hair 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 Hair's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

7. Mr Hair in his declaration 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. Mr Balogun who was representing the Valuation Officer stated that as he had not prepared the Valuation Office Agency’s evidence pack, therefore he was acting as advocated only.

11. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties’ evidence. 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 an indication that that statement or item of evidence has been overlooked by the panel.

Issue

12. The matter before the panel was to determine the correct level of the RV for the appeal property having regard to the weight of evidence to be attached to the rental evidence in respect of the property and the levels of value placed on comparable assessments from the locality. Two matters had been appealed the rate per square metre to apply to the appeal property and the amount of uplift to apply to the first floor due to air conditioning.

13. All relevant factual information was not disputed by the parties.

Decision and reasons

14. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD).

15. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal.

16. The Valuation Officer (VO) had uplifted and applied a relativity of 1.32 to the first floor area to reflect the extent of air conditioning. It was the appellant’s representative’s opinion that an uplift of 1.26 should be applied as the appeal property only had comfort cooling cassettes and heating.

17. At the hearing the VO accepted that the appeal property only had comfort cooling therefore an uplift of 1.26 should be applied to the first floor and he presented an amended RV of £22,750. Consequently this issue was no longer before the panel.

18. The panel found that there was a rent of £24,000 pa on the appeal property effective from 2006. However, from July 2019 there was a new letting on it at £35,000 pa.

19. The appellant’s representative argued that in his opinion the principal evidence in this appeal is the new letting on a similar property on the same business park namely, Unit 14, Metro Centre, St Johns Road, IsleworthTW7 6NJ. The occupier on this property took a new 10 year lease, subject to a tenant’s break in the 5th year. A stepped rent was agreed at £20,000 in the first year, £35,000 in the second year and £40,000 for third year and onwards.

20. Adopting the areas agreed in the letting particulars at 591.47 m², which the appellant's representative argued were more up to date than the VO's, the rent on this property devalued to £54.62 per m², the appellant's representative accepted that the appeal property is considerably smaller than Unit 14. Therefore allowing for quantum and quality the appellant's representative was of the opinion that a value of £75 per m² for the appeal property was fair and reasonable giving a revised Rateable Value (RV) of £15,500 (including car parking).

21. The VO argued that little weight should be placed upon Unit 14 Metro Centre as according to his records the area given for Unit 14 was incorrect. He was also of the opinion that the evidence suggested that the rent on this property is out of step with the pattern of evidence.

22. The VO further argued that the value for the appeal property should not be based on one rent but the basket of rental evidence he presented should be considered. In support of his value of £115 per m² the VO referred to properties on Isleworth Business Complex. He argued that Metro Centre and Isleworth Business Complex were comparable as they were similar in age, both built in the 1980s, and that they were only 0.3 miles from each other.

23. The VO presented three rents from Isleworth Business Complex (Units 2, 9 & 12) which were effective from 2014, 2015 and 2018. It was the VO's opinion that there was no evidence to suggest that values within Metro Centre and Isleworth Business Centre were not similar. These properties ranged in size (ITMS) from 110.39 m² to 112.11 per m². When the rents on these properties were analysed, they ranged in value from £114.42 per m² to £125.01 per m² and in the VO's opinion fully supported the value of £115 per m² applied to the appeal property.

24. The VO contended that after accepting that an uplift of 1.26 should be applied to the first floor, to reflect the cooling cassettes, and adopting a value of £115 per m² he was proposing a revised RV of £22,750 (including car parking).

25. It was the appellant's representative opinion that Isleworth Business Complex should not be compared to Metro Centre. He contended that they were not comparable because Isleworth Business Complex was not an Industrial Estate therefore it would attract a different type of occupier and attracted different markets. Rents would be different on the two Estates as Isleworth Business Complex is an estate for extremely small industrial units, with all units being circa 110 m² as well as the units being built 1990s and not 1980s. They are newer smaller units and both factors would have a significant impact on the rents achieved.

26. The panel initially considered the rental evidence given on Unit 14 Metro Centre it was noted that the parties disagreed on the size of this property which would have an affect on how the rent of this property is analysed for rating purposes. However, the panel considered even though this property was situated within Metro Centre it was considerably larger than the appeal property. Due to the conflict in size between the parties on this property the panel did not find this evidence in isolation wholly reliable. In order to establish a value the panel considered the other rental evidence presented.

27. The panel found that the VO presented evidence of value on three comparable properties within Isleworth Business Complex. The appellant's representative had argued that the Metro Centre and Isleworth Business Centre were not similar due to factual differences namely the age difference, the style of the properties and the fact that the Estates would attract different types of occupiers.

28. From the evidence presented the panel had not been persuaded that the value of 4 Metro Industrial Centre and the comparable properties within Isleworth Business Complex were considerably different. There was not a major size difference, the ages of both Estates were similar and they were located close to each other. The panel considered that there were sufficient similarities in order to make a comparison.

29. Having considered the basket of evidence presented and taken it all into account, the panel consider that it had not been demonstrated that the value adopted by the VO was excessive. This was especially supported by the rental evidence on similar properties within Isleworth Business Complex, which the panel placed most weight on.

30. Consequently, in appeals of this nature, the burden of proof rested on the appellant's representative to illustrate that the appeal property's assessment was overvalued. In relation to this appeal, the representative had failed to persuade the panel that the existing basic rate was excessive.

31. The panel therefore is of the opinion that a value of £115 per m² is fair and reasonable for the appeal property. However, it had been agreed that an uplift of 1.26 should apply to the first floor due to the appeal property only having comfort cooling cassettes and heating.

32. Therefore, taking the change to the first floor's value into account the panel partly allows the appeal and confirms a rounded down RV of £22,750 with effect from 1 April 2017.

Order:

33. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to alter the appeal property's entry in the Rating List to £22,750 Rateable Value with effect from 1 April 2017. The Valuation Officer must comply with this Order within two weeks of its making.

34. Any fee paid will be refunded in full in accordance with regulation 13E.

Appeal No: CHG100080634

Dated: 23 November 2020