THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; warehouse and premises; hybrid industrial unit; relativities and end allowance in dispute; rental evidence; comparable assessments; appeal allowed in part.

RE: Block B Rhopoint House, Imberhorne Lane, East Grinstead, West Sussex, RH19 1QZ

APPEAL NUMBER:	CHG100083581	
BETWEEN:	Rhopoint Components Limited	Appellant
	and	
	Mr A Corkish, Valuation Officer	Respondent
PANEL:	Mr A Ramsay (Senior Member sitting alone)	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Tuesday 8 December 2020	
APPEARANCES:	Mr D Snell from Altus Group, representing the appellant	
	Mr S Forbes representing the Valuation Officer	

Summary of decision

1 Appeal allowed in part. The Rateable Value (RV) of the appeal property is altered from £55,000 to £54,500 with effect from 1 April 2017.

Introduction

2 This is a 2017 rating list appeal. Block B Rhopoint House, Imberhorne Lane, East Grinstead, West Sussex, RH19 1QZ, (the ‘appeal property’) had been entered in the 2017 rating list as ‘warehouse and premises’ at a RV of £55,000 with effect from 1 April 2017.

3 The challenge proposal was submitted by Altus Group on behalf of Rhopoint Components Limited and was received by the Valuation Officer on 25 March 2019. It had been made on the grounds that the RV shown in the rating list

on 1 April 2017 was wrong. A revised RV of £34,500 was proposed with effect from 1 April 2017.

4 The Valuation Officer issued a challenge case decision notice on 15 July 2020, which stated that based upon the evidence and information available, the rating list entry was considered to be reasonable and there would be no amendment made to the rating list.

5 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 22 September 2020.

6 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.

7 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.

8 Mr Snell 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), his declaration of truth included a statement that he was instructed on a contingency fee basis. He 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 I 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). I therefore considered the expert evidence and attached such weight to it as I saw fit.

10 The appeal property is a hybrid unit purpose-built in the 1990s, for research and development businesses. It has a total area of 579 m^2 and comprises warehouse and offices on the ground floor, and offices on the first floor. The present valuation of £55,000 RV is based upon an adopted price of £85 per m^2. The matrix used for the valuation is “all industrial property built 1990 onwards at Birches Industrial Estate, East Grinstead, West Sussex.”

11 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 it being overlooked.

Issues

12 The issues in dispute related to the relativities adopted for the ground floor warehouse and offices, and whether an end allowance of 10% was appropriate to reflect high office content.

Evidence and submissions

13 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer’s initial response and challenge case decision notice, rental evidence summary; appellant’s challenge submission.

14 On behalf of the appellant, Mr Snell explained that the challenge proposal had been submitted by a colleague who had sought a revised RV of £34,500 based upon an adopted price of £53 per m^2. This had been based upon an analysis of the subject rent.

15 Mr Snell confirmed that he was not seeking to challenge the present tone of £85 per m^2. Instead, he contended that the relativities to be adopted in the valuation of the ground floor offices and warehouse should be altered to reflect their disabilities when compared to the Valuation Officer’s comparable assessments. He also contended that there should be an end allowance of 10% applied to reflect the overall high office content. This resulted in a revised RV of £44,750, which he asked to be determined with effect from 1 April 2017.

16 On behalf of the Valuation Officer, Mr Forbes referred to rental evidence which he contended supported the adopted price of £85 per m^2. While the comparable properties were traditional warehouses, he submitted that the values supported the level applied to the appeal property, in view of its higher specification; he commented that the price applied was generous, as this type of property may in fact command a premium.

17 He therefore asked for the appeal to be dismissed and the RV of £55,000 confirmed with effect from 1 April 2017.

Decision and reasons

18 In arriving at my decision, I am governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) 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.

19 In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

20 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

21 I noted that the appeal property was subject to a new lease at a rent of £45,000 per annum with effect from 24 June 2012. The parties agreed that the rent analysed at £53 per m^2 (excluding fit out costs).

22 The Valuation Officer had attached little weight to the subject rent, as it was considered to be too far removed from the AVD and required further adjustment to reflect a 12 month rent free period. In addition, £66,200 had been spent on fit out. Mr Snell had not sought to rely on the rent in support of his case, however, he disputed that it should be disregarded completely, as it illustrated that the appeal property had achieved a lower rental value than the Valuation Officer's comparable properties.

23 The first issue in dispute was the relativity for the ground floor warehouse. Mr Snell contended that as the eaves height was only 3.43 metres, compared with the majority of properties within the scheme at circa 6 metres, there should be a line adjustment to reflect the reduced height at 70%, or 0.7.

24 In response, Mr Forbes submitted that the appeal property had been in the rating list since 1995, and the eaves height had not been an issue raised previously. He considered that this was because the appeal property had been purpose-built with a particular occupier in mind (e.g. for use as laboratories or small workshops) and not the general industrial occupier who

would require large access and eaves height. Furthermore, as the property had been built close to a residential area, Mr Forbes believed that the planners would have wanted to keep the units occupied by light industrial users.

25 While I acknowledged the reasons why Mr Snell sought to distinguish the appeal property from the Valuation Officer's comparable properties, I am satisfied that the correct relativity for the ground floor warehouse is a factor of 1, for the reasons outlined by Mr Forbes.

26 The second issue in dispute was the relativity for the ground floor office. Mr Snell proposed an alteration in the relativity applied from 1.2 to 1.1 to reflect that the office is of basic quality with painted block walls. In support, he referred to Leo House, a neighbouring property where the ground floor office had been valued at a relativity of 1.1. Mr Forbes agreed that the painted block walls were not the most attractive feature, however, as the office had the benefit of a suspended ceiling and windows, he disputed that a lower relativity was appropriate.

27 With reference to the photographs, and in consideration of the lower relativity applied to the neighbouring property, I am satisfied that Mr Snell has demonstrated that the valuation of the ground floor office at a relativity of 1.1 is fair and reasonable.

28 The third and final issue in dispute was whether there should be an end allowance of 10% applied. Mr Snell explained that in taking a stand back and look approach, and in consideration of the subject rental analysis, he was of the opinion that there should be an end allowance to reflect the overall high office content. Mr Forbes reiterated that the appeal property could be distinguished from the traditional industrial units. Its high office content was part of the purpose-built design, and not necessarily a disadvantage. In addition, he confirmed that no allowances had been granted on neighbouring units.

29 As stated previously, I understood why Mr Snell sought to distinguish the appeal property from the Valuation Officer's rental comparable assessments. However, it was acknowledged by all parties that the traditional industrial units were not directly comparable with the appeal property, being a hybrid unit. I was not persuaded, therefore, that it was appropriate to apply an end allowance to reflect any physical differences.

30 With reference to the five pieces of rental evidence provided by the Valuation Officer, I noted that Mr Forbes highlighted Unit 28 Birches Industrial Estate as being the most relevant comparable. The rent effective from 1 June 2016 analyses at £92.50 per m^2. The analysis of the other properties ranged between £77.50 per m^2 (for an older unit) and £101.27 per m^2. I am therefore satisfied that the Valuation Officer had demonstrated that at an adopted price of £85 per m^2, the valuation of the appeal property was reasonable.

31 In conclusion, while I did not uphold Mr Snell's contentions for a lower relativity for the ground floor warehouse or an end allowance of 10%, I decided to uphold his contention for a lower relativity to be applied to the ground floor offices. The appeal was therefore allowed in part, and the RV determined at £54,500 with effect from 1 April 2017:

Floor	Description	Area m^2	Relativity	£ per m^2	Value (£)
Ground	Offices	90.15	1.1	93.50	8,429
Ground	Warehouse	199.35	1.0	85.00	16,945
First	Offices	289.50	1.2	102.00	29,529
				Total	54,903

Rounded down to £54,500 RV

32 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

33 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 £54,500 with effect from 1 April 2017.

Date: 21 December 2020

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