THE VALUATION TRIBUNAL FOR ENGLAND

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

RE: 1st Floor, 4 Roger Street, London WC1N 2JX

APPEAL NUMBER: CHG100084245

BETWEEN:	Fleurets Ltd	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

PANEL:	Mr M H Smith (Chairman) Miss E F M Blois
CLERK:	Mr D Mulgrew
HEARING:	Remote hearing No.1 on 3 December 2020
APPEARANCES:	Mr G Bunn (Appellant's representative) Ms Y Pearl (Respondent's representative)

Summary of decision

1. Appeal allowed. The rateable value was reduced to £114,500 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of 1st Floor, 4 Roger Street, London WC1N 2JX (the 'appeal property') which was entered in the 2017 rating list as 'office and premises' at rateable value £130,000, 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 £115,000. 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. Mr Bunn believed a revised rateable value of £114,500 was correct.

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. 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

8. The issue in dispute concerned the rateable value of the appeal property. It had been valued on £385.65/m^2, which was stated to be based on £350/m^2 with a 10% uplift for the presence of air conditioning.

9. Mr Bunn was of the view that the rateable value did not reflect the rental evidence. Ms Pearl was of the belief that the rateable value was fair and reasonable.

Evidence and submissions

10. 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 rent in respect of the appeal property;

[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).

- the Valuation Officer’s initial response to the challenge which included rental evidence in respect of a comparable property and the rating assessment details of three comparable properties;

- a further response on behalf of the appellant outlining the reasons for disagreeing with the Valuation Officer’s initial response;

- a photographic schedule of the condition of the first and ground floors by Cluttons in January 2005; and,

- the challenge decision from the Valuation Officer which included the existing rating list valuation in respect of the appeal property.

11. Mr Bunn had made the appeal because he believed the Valuation Officer had not had enough regard to the available rental evidence and had not analysed the comparable evidence correctly.

Decision and reasons

12. 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”.

13. 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).

14. Ms Pearl referred to the Lands Tribunal decision in *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.

15. The rent in respect of the appeal property was £127,270 from 10 January 2015, agreed on a lease renewal for a term of five years. There was an initial rent-free period of six months, but as the appellant had been in occupation since 2005, this was viewed by both parties as an incentive rather than for fitting out. The appellant had adjusted the rent to £114,543 and the Valuation Officer had adjusted it to £112,544.

16. The panel considered the rental evidence in respect of the appeal property to be the best evidence. While it was not a new letting, as envisaged by the rating hypothesis, it was nonetheless a lease renewal. The rent had been agreed less than three months before the AVD which made it very relevant.

17. The only other rental evidence provided was in respect of 2nd and 3rd Floors, 4 Roger Street, which was another lease renewal for a term of five years, from 1 March 2015. The panel noted that this was only a month before the AVD.

18. The rents in respect of the appeal property and 2nd and 3rd Floors was stated by Ms Pearl as devaluing to £332.58/m^2 and £345.48/m^2, respectively. However, Mr Bunn had highlighted that the Valuation Officer had been inconsistent in the rental analysis by dividing by main space price on one but not the other.

19. Mr Bunn stated that 2nd and 3rd Floor of 4 Roger Street had the advantage of a roof terrace which he believed was approximately half of the building's footprint. Apart from that, he stated that it had the same specification as the appeal property, including air conditioning and raised floors. Ms Pearl seemed to confuse Mr Bunn's argument as a challenge to the areas adopted by the Valuation Officer in respect of the 2nd and 3rd Floor assessment, when Mr Bunn was simply contending those premises had an advantage over the appeal property.

20. Having regard to the rent in respect of 2nd and 3rd Floors, 4 Roger Street, the panel considered this confirmed the level of value indicated by the actual rent in respect of the appeal property. Both rents indicated to the panel that the appeal property's current unit price of £385.86/m^2 was excessive.

21. The panel then considered the comparable assessment evidence in respect of other offices in the same building. All the offices had a base rate of £350/m^2 with various uplifts. The panel recognised Mr Bunn had a good knowledge of the building because he had worked there for several years, including previously occupying part of the ground floor. Unfortunately, the Valuation Officer had not inspected the building even though Mr Bunn had stated that all the offices had air conditioning and raised floors. It was also noted that the 1st, 2nd and 3rd floors of the building were accessed by a single passenger lift and there were toilets on each floor.

22. While the comparable assessments were considered, they were relevant to a lesser degree. There were inconsistencies in the uplifts for air conditioning and raised floors. None of the values appeared to be supported by the rental evidence which had been presented.

23. In light of all the evidence, the panel decided that the rental evidence was the most persuasive. Given the proximity of the rents to the AVD, the panel held that the rateable value should reflect them. The adjusted rents for the appeal property were either £114,543 (according to the appellant) and £112,544 (as per the Valuation Officer), which meant that Mr Bunn's proposed reduction to rateable value £114,500 was supported.

24. The appeal was therefore allowed.

Order

25. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to rateable value £114,500 with effect from 1 April 2017.

26. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fee

27. As the ground of the appeal has been made out, the appeal fee is to be refunded in full.

Date: 8 December 2020

Appeal number: CHG100084245