THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of Compiled List RV in 2017 Rating List; Warehouse and Premises; quantum. Appeal allowed.

Re: Unit A, Osborn Way, Hook RG27 9HX

APPEAL NUMBER: CHG100091307

BETWEEN:	Surface Technology International	Appellant
	and	
	Valuation Officer	Respondent

PANEL: Dr J Johnson (Senior Member)

Mr S Hooberman

CLERK: Mechile Hempton

REMOTE HEARING on 3 December 2020

APPEARANCES: Mr O Hamblin of Altus Group represented the appellant

The Respondent VO was represented by Ms F Ferreira

Summary of decision

1. The appeal is allowed, and the panel confirms a revised RV of £93,500 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 £119,500 from 1 April 2017, with a description of Warehouse and Premises. This was a compiled list appeal, so the material day was also 1 April 2017. The appeal was made on 15 September 2020 against the Valuation Officer's (VO) Decision Notice of 17 July 2020 in respect of the appeal property (hereditament) and the revised RV of £113,000. Mr Hamblin maintained that a RV £93,500 was the appropriate value for the appeal property.

3. The panel was informed by Mr Hamblin that the appeal property was a 1970's industrial building of a steel portal frame construction and situated on The Rose Estate. It was held on a ten year lease at £123,142 per annum from May 2011 and the rent had not been reviewed since. The appeal property measured 2,159.28 m^2 in area.

4. Mr Hamblin was appearing on behalf of the appellant as both advocate and expert witness. Therefore, it was important to ascertain if there was a success related fee involved and, if so, whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

5. Mr Hamblin explained that Altus Group was representing the appellant in this appeal on a contingency fee basis. However, 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.

6. The panel have accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

7. 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.

8. 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.

9. 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.

Preliminary Issue

10 The VO had submitted further evidence of settlements on The Rose Estate on 23 November 2020 to the Valuation Tribunal and to the representative. The representative had agreed to this evidence being submitted on the understanding that he could then put forward his rebuttal to this information, which he duly did the following day. Though agreement between the parties to further evidence being provided is allowed in the Tribunal's standard direction, the panel asked the VO to explain why she had not sent this information at least four weeks before the hearing day as this is also a requirement of the direction.

11 Ms Ferreira said that she had become the caseworker for the appeal late in the process and, as a consequence, her evaluation of the evidence meant that this additional factual evidence had to be submitted. She added that reference to settlements of assessments on The Rose Estate had formed part of the Valuation Office's argument in the challenge document. Mr Hamblin said that he had dealt with the settlements on The Rose Estate and he did not oppose their inclusion as evidence.

12 The panel adjourned the hearing briefly and, when the hearing was reconvened, the panel gave its approval for this evidence and Mr Hamblin's rebuttal to be entered into proceedings.

Issue

13 The only issue in dispute was whether an allowance for quantum should be applied to the main space price of the appeal property. The VO had adopted a main space price of £57 per m^2 without quantum whilst the representative contended for a reduced value of £47 per m^2 to reflect a quantum allowance.

Decision and reasons

14 After due consideration of all of the evidence presented, the panel decided to allow the appeal at a main space price of £47 per m^2 to reflect the quantum allowance proposed by the representative. The VO in her argument had contended that the appeal property should be valued in line with the rent passing on the appeal property itself and from the basket of rents for smaller units on The Rose Estate which supported the tone of £57 per m^2.

15 Ms Ferreira explained that originally there had been limited rental evidence in the locality and the Valuation Office had to adopt relative values from other areas, hence why quantum had been a factor applied to the appeal property. However, the new rental evidence from The Rose Estate collated from 2013-2016 on units of 1,000 m^2+ supported the revised tone figure of £57 per m^2; the rental evidence did not support a quantum allowance.

16 Mr Hamblin's approach was that the original list of assessments in the scheme was for units of 450 m^2 to 2559 m^2: middle-sized units had their values adjusted from £75 per m^2 to £57 per m^2 but Unit A, as the largest unit on The Rose Estate and in the scheme, only had a marginal decrease. The schedule of assessments in his rebuttal showed that a number of units had reductions made in the range of 12 – 19% in their value per m^2. He had looked at Unit 6, at half the size of Unit A, and there was a £9.89 per m^2 difference between Unit 6 and Unit A: Unit 6 had its price per m^2 reduced from £69.89 to £57, whilst the corresponding reduction on the appeal property was from £60 per m^2 to £57 per m^2.

17 He also cited Unit C2, one of the smallest units on the estate, which had its original price of £70 per m^2 reduced at challenge stage to £57 per m^2. Given the size of the appeal property, he asked for the adoption of the same quantum trend that the VO had applied when the scheme was introduced.

18 The panel agreed with Mr Hamblin that the appeal property's rent dating from 2011 was of no assistance in determining the correct price per m^2 as it was an old rent. Also, as the appeal property was the only one of its size on the estate, there was no prospect of obtaining rental evidence for a similar sized unit in the locality. Instead, the appeal property has been valued by the VO at the same price of £57 per m^2 as much smaller units on the estate based on more recent rental evidence, and with quantum discarded on the basis of these newer rents.

19 However, the panel is not persuaded by the removal of quantum as an element to be considered on the valuation of the appeal property. Unit A is considerably larger than the other units on the estate, and the reductions achieved in terms of price per m^2 on smaller units on their original base rate is not continued through to the assessment on Unit A.

20 To conclude, the panel is satisfied that the evidence shows that the valuation of the hereditament is unreasonable, and the appeal is allowed with the representative's revised valuation confirmed at £93,500 with effect from 1 April 2017.

Order and refund of appeal fee

21 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 £93,500 Rateable Value with effect from 1 April 2017. The Valuation Officer must comply with this Order within two weeks of its making.

22 As the appellant has been successful in their appeal, in accordance with Regulation 13E of The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appellant's fee must be refunded.

Date: 14 December 2020

Appeal number: CHG100091307