THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; distribution warehouse and premises; price per m^2 in dispute; comparable assessments; national scheme; appeal dismissed.

RE: Unit 900 Fareham Reach, Fareham Road, Gosport, Hampshire, PO13 0FP

APPEAL NUMBER:	CHG100095066	
BETWEEN:	CPG Logistics Ltd	Appellant
	and	
	Ms D Bunyan, Valuation Officer	Respondent
PANEL:	Mr A Ramsay (Senior Member), Mr S Hooberman	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Friday 11 June 2021	
APPEARANCES:	Mr O Hamblin from Altus Group, representing the appellant	
	Mr P Thorne representing the Valuation Officer	

Summary of decision

1 Appeal dismissed. The panel confirmed the Rateable Value (RV) of the appeal property at £615,000 with effect from 1 April 2017.

Introduction

2 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.

3 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.

4 This is a 2017 rating list appeal. Unit 900 Fareham Reach, Fareham Road, Gosport, Hampshire, PO13 0FP, (the 'appeal property') had been entered in the 2017 rating list as 'Distribution warehouse and premises' at a RV of £615,000 with effect from 1 April 2017.

5 The challenge proposal was submitted by Altus Group on behalf of Transport CPG Logistics Ltd and was received by the Valuation Officer on 8 November 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 £420,000 was proposed with effect from 1 April 2017.

6 The Valuation Officer issued a challenge case decision notice on 13 January 2021, which stated that based upon the evidence and information available, the current rating list entry of £615,000 RV was considered to be under assessed and would be increased to £635,000 RV.

7 The discovery of inaccuracies in the survey derived "from other information" by the Valuation Officer was determined to be outside the scope of the subject appeal. Mr Thorne confirmed that an inspection was required to confirm factual details, and therefore he was requesting a dismissal of the appeal, rather than an increase in RV.

8 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 appellant's representative proposed a revised RV of £430,000 with effect from 1 April 2017. The appeal was received by the Tribunal on 15 March 2021.

9 Mr Hamblin 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.

10 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

11 The appeal property is a detached industrial unit of steel portal frame construction built in 2000, situated within Fareham Reach Business Park, approximately one mile to the south-east of Fareham town centre. It is located close to junction 11 of the M27 which is the principal motorway servicing the south coast. In addition to the warehouse, there is a two storey ancillary office block. The warehouse has an eaves height of 11.14m, and the total significant area of the property is 9,020.7m^2.

12 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 by the panel.

Issues

13 The issues in dispute related to the correct valuation scheme to be applied, and the price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

14 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice, rental evidence and assessment summaries, and appellant's challenge submission.

15 Mr Hamblin contended that the appeal property should be valued in scheme 337000 which is applicable to industrial properties situated at Fareham Road, Gosport, including Fareham Reach. He disputed that the appeal property should be valued in scheme 416127 which is applicable to large distribution warehouses in the Counties of Hampshire and Isle of Wight.

16 With reference to rental and assessment evidence, Mr Hamblin proposed a revised RV of £430,000 based upon an unadjusted price of £45 per m^2.

17 On behalf of the Valuation Officer, Mr Thorne submitted that the appeal property is correctly valued in scheme 416127 as it is a modern high bay distribution warehouse. He stated that large distribution warehouses are valued on a national basis. For the 2017 rating list assessment, the appeal property has been valued at a base rate of £65 per m^2 which is in line with the levels of value adopted for other distribution warehouses in the locality.

18 Mr Thorne asked the panel to confirm the Valuation Officer's adopted base rate of £65 per m^2 and dismiss the appeal.

Decision and reasons

19 In arriving at its decision, the panel was 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;
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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;
>
> (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.

20 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).

21 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.

22 The appeal property is held on a lease effective from 4 February 2000. At the 2010 rent review the rent was agreed at £708,000 per annum (pa) and increased to £715,080 pa at the rent review on 4 February 2015.

23 Mr Hamblin submitted that the nominal increase in rent of 0.1% suggested that the property was over rented, and therefore greater weight should be attached to the new letting evidence within the estate.

24 Mr Thorne agreed that there had only been a nominal increase in 2015, however he pointed to the fact that the current 2017 RV was £100,000 lower.

25 The panel noted that, at £708,000, the passing rent was in excess of the RV of £615,000 in dispute, and significantly higher than Mr Hamblin's proposed RV of £430,000. The parties were in agreement that the passing rent was

excessive and, as such, the panel held that, while it carried some weight, it should not be considered in isolation.

26 The crux of the case was whether the appeal property should be valued as a large distribution warehouse or a standard industrial unit.

27 In support of the appeal property being valued as a standard industrial unit, Mr Hamblin presented the following arguments:

- Distribution warehouses are usually greater than 10,000m^2 or are valued in this scheme because a property may be uniquely large for the area it is located in. This is not the case for the appeal property because there are similar sized units in the same estate which are more closely comparable. The appeal property, at 9,020.7m^2 in total significant floor area, should be valued in line with the other assessments in Fareham Reach which are the most comparable in terms of size, location and specification.
- The eaves height of the warehouse at the appeal property is 11.14 m. This is closer to the eaves height of the units at Fareham Reach at 7.5m than that of the Valuation Officer's only comparable which has an eaves height of 15.34m.

28 Mr Hamblin provided a summary of comparable assessments which comprised 20 properties from Fareham Reach. He contended that the appeal property should be valued in line with Unit 1000 Fareham Reach, a unit of 6,940m^2 at £45 per m^2. He also provided rental evidence in respect of five properties from Fareham Reach which, he contended, demonstrated that the subject property is overvalued: the analysed rents ranged from £47.50 to £55.00 per m^2 for properties ranging between 2,544.27m^2 and 6,256.77m^2.

29 In support of the appeal property's valuation as a distribution warehouse, Mr Thorne summarised its main features:

- Built in 2000.
- Steel portal frame construction in two bays with a high eaves height of 11.14m. A modern high bay distribution warehouse typically has a full eaves height of between 12-14m, rather than the 4-6m eaves of standard industrial units. If an individual property has an eaves height that is lower or higher than this, the rate per m^2 that is applied to its warehouse area is either reduced or increased to reflect this.
- Total significant area of 9,020.7m^2. The national scheme applies to all distribution warehouses that have a total significant area over 8,000m^2.
- Approximately 50% site coverage.
- At its south-western end is a large yard some 36m deep.
- Access to the warehouse from the yard is by seven dock loading doors with tail gate access and two ramped level access doors. There are also a further six dock loading doors along its north-western side.

- Good access to the M27 being only 2.2 miles to the south of Junction 11.

30 Mr Thorne contended that all of those features clearly demonstrate that the appeal property is a modern, high bay distribution warehouse. In contrast, Mr Hamblin's comparable properties were older and had very different specifications and physical attributes to those of the subject, for example, lower eaves height, structural piers, small yards, and high site coverage.

31 In consideration of the parties' submissions, together with reference to the photographs of the appeal property and comparable assessments, the panel determined that the appeal property is most suitably described as a distribution warehouse.

32 While Mr Hamblin's comparable properties are located on the same estate, the panel held that they were different in age, size and character to the appeal property. The panel was referred to Unit 1000 Fareham Reach as the most relevant comparable property by Mr Hamblin. However, as outlined by Mr Thorne, this is a standard height industrial unit which was built in 1975, with high site coverage, poor narrow access (which is also height restricted) and no yard space. Consequently the panel held that it was not suitable for comparison with the appeal property.

33 The panel also took into account the fact that the appeal property was assessed as a distribution warehouse in the 2010 rating list. CVS (who are now part of Altus Group) appealed the 2010 list assessment, but did not seek to have it revalued in line with the lower levels of value.

34 Having determined that the appeal property had been correctly assessed as a distribution warehouse, the panel then turned to the issue of the adopted price per m^2 in order to establish whether the assessment of the hereditament was reasonable.

35 Mr Thorne argued that all distribution warehouses across the country are valued on the same national basis, which is then replicated in the individual schemes that are used to value them. For 2017, the subject property is valued at a main base rate of £65 per m^2 which, he submitted, is in line with the levels of value adopted for other distribution warehouses in the locality.

36 Estee Lauder, Constellation House, Unit 3 Kites Croft Business Park, Warsash Road, Fareham, Hants, PO14 4FL was cited by Mr Thorne as the nearest comparable to the appeal property. This is a distribution warehouse built in 2005, with a total significant area of 14,365 m^2. It is valued at a base rate of £65 per m^2 with an addition for a higher than normal eaves height of 15.34m.

37 The panel was satisfied that, at £65 per m^2, the appeal property had been valued in line with its closest relevant comparable property and in accordance with the national scheme for distribution warehouses. In consideration of the

lower than normal eaves height of 11.14m, Mr Thorne confirmed that an adjustment had been made to the price per m^2 of the warehouse area.

38 It was also a feature of the national scheme that no quantum was applied to the main base rate for properties with a total significant area less than 50,000m^2. It was therefore not a relevant consideration that Unit 3 Kites Croft Business Park was larger than the subject.

39 In conclusion, the panel determined that the appellant's representative had failed to demonstrate that the appeal property had been valued in the wrong scheme. The valuation of the appeal property as a distribution warehouse at £65 per m^2 was therefore confirmed by the panel and the appeal dismissed.

Date: 29 June 2021

Appeal Number: CHG100095066