THE VALUATION TRIBUNAL FOR ENGLAND

Summary of Decision: non-domestic rates; 2017 rating list appeal; office and premises; comparable properties; panel found that the comparable properties presented by the representative were not truly comparable to the appeal property; appeal dismissed the evidence showed that the existing valuation was reasonable.

Re: The Wigan Investment Centre & CT3 Building, Waterside Drive, Wigan, Lancashire WN3 5BA

APPEAL NO: CHG100098566

BETWEEN:	John Burns	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

BEFORE: Miss L Moses (Senior Member) and Miss R Punia

CLERK: Mrs R James IRRV (Hons)

REMOTE HEARING 1: Friday 11 June 2021

APPEARANCES: Mr J Hart of Hart Commercial Surveyors Ltd (on behalf of the Appellant)
Mrs R Fahy (Respondent's representative)

Summary of decision

1. The appeal was dismissed; the appeal property's assessment remained unaltered at £412,500 Rateable Value (RV) with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: The Wigan Investment Centre & CT3 Building, Waterside Drive, Wigan, Lancashire WN3 5BA, which was entered in the 2017 Rating List as office and premises at £640,000 RV, effective from 1 April 2017.

3. The appellant's Challenge to the Valuation Officer (VO) was made on 20 May 2019. The appeal to this Tribunal was made on 11 March 2021, following the VO's Decision Notice of

18 November 2020, in respect of the appeal property (hereditament). This is a compiled list appeal, so the material day is 1 April 2017. The RV of the appeal hereditament was originally £640,000, with effect from 1 April 2017. However, following the Challenge, the VO served a Notice to reduce the assessment to £412,500 RV, with effect from 1 April 2017.

4. The appeal hereditament comprised two three-storey office buildings of traditional construction with brick elevations under a slate roof. The two buildings were connected by a corridor link. Wigan Investment Centre (WIC) had been built in 1992. The design was sympathetic to its canal side location having a warehouse look with small arched windows. It had noticeable differences to later builds that tended to use a greater amount of rolled steel fame and glass in construction. The CT3 building had been built in 2001. Further office developments were built on Waterside Drive with Jubilee House in 2003 and Waterside House in 2004.

5. The premises were located on Waterside Drive, off Chapel Lane (B258), which continued in a northernly direction to meet the A49 Wigan Bypass and was approximately three quarters of a mile south of Wigan town centre. It was located alongside the Leeds-Liverpool Canal.

6. WIC was held by way of a 25-year full repairing and insuring lease that commenced on 1 September 1999 at a rent of £255,000 per annum (pa). There was a provision to review the rent in the second, fourth and every fifth year thereafter to the higher of the current or open market rent; however, the rent had not increased. The rent devalued to £64.01/m^2. There was no rent passing in respect of the CT3 building as the appellant held the freehold interest.

7. In the 2010 Rating List, the WIC and CT3 Building were separately assessed from 1 April 2010 at unadjusted main space rate of £80/m^2 (adjusted to £73.74/m^2 for quality reductions) and £99/m^2 (adjusted to £92.63/m^2) respectively. The two office buildings were merged, with effect from 1 April 2013, when the rateable occupier became one company resulting in a reduced main space rate on the CT3 Building of £95/m^2 (adjusted to £88/m^2). There was then a 10% end allowance applied to the assessment to reflect the split site.

8. 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.

9. 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.

10. Mr Hart 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 Hart declared that he was not instructed under any conditional fee arrangement. 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.

11. A preliminary issue was raised. Mr Hart highlighted that the VO had first referred to the rental evidence in respect of Jubilee House within the Challenge Decision Notice. As such, it had not been introduced at the correct stage. Furthermore, on several occasions, he had requested to view the FOR in respect of this rent but had not been given the opportunity. In response, Mrs Fahy explained that she had not been the original caseworker for this appeal. She accepted that the VO had not followed due procedure in relation to the rental evidence on Jubilee House and had no objections to that evidence being excluded. Following a short adjournment, the panel decided to exclude the rental evidence in respect of Jubilee House. The panel accepted that if it was to be allowed, Mr Hart would be prejudiced and the VO accepted this point.

12. 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 when 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.

Issue

13. What was the correct main space rate to be applied to the appeal property?

Evidence and submissions

14. In a statement which accompanied the Challenge, together with his oral presentation at the hearing, Mr Hart gave several reasons as to why he believed that the 2017 assessment was incorrect and excessive, which included:

i) The assessment had been reduced following the Challenge and the original issues surrounding the relativities to be applied and how to value the car park had been resolved. However, Mr Hart still contended that the current main space rate applied to the appeal property was excessive.

ii) In support of his case, Mr Hart had provided rental and assessment schedules detailing offices in the Wigan area. In referring to the assessment schedule, Mr Hart pointed out that the main space rates applied to several of the office assessments in Wigan had seen a decrease from their 2010 to 2017 Rating List assessments.

iii) Mr Hart's main rental comparable was a new letting on Shearings Holdings Ltd, which was a 10 year lease commencing on 4 September 2017. This property had a total area of 1,914.34 m^2. The constant equivalent rent calculated to £147,094 pa, which equated to £76.83/m^2 reflecting car parking and £53.43/m^2 when valuing the car parking spaces separately.

iv) Mr Hart explained that a two year rent free period had been granted to Shearings Holdings Ltd. He believed that the appeal property would struggle to let if exposed to the open market due to its size and the economic conditions preceding the AVD. The largest offices on the market, Bryan House and Waterside House, had been exposed for a number of years. For this reason, he had heavily discounted evidence on smaller demises for quantum.

v) The rent passing on WIC devalued to £64.01/m^2.

vi) Further reference was made to the rents passing on other smaller offices at Waterside House, Smithy Court, Kingscroft Court and Beecham Court.

vii) To conclude, Mr Hart sought a reduced main space rates of £46/m^2 (£38.38/m^2 adjusted) for the WIC and £50/m^2 (£46.25/m^2 adjusted) for the CT3 Building. The agreed 10% end allowance for split site had been applied, which resulted in his proposed assessment of £215,000 RV, with effect from 1 April 2017.

15. In the VO's Challenge case decision notice and in oral presentation at the hearing, it was explained that:

i) The issues regarding the floor area, survey details, line allowances, together with the issues surrounding the car park had been resolved. A 10% end allowance had also been agreed to the whole hereditament to reflect the split site. The only issue in dispute related to the correct main space rate to be applied.

ii) Mrs Fahy accepted that the VO had not provided any rental evidence at the correct time in respect of this appeal. However, she contended that little weight should be attached to the rental and assessment schedules provided by Mr Hart. Those schedules comprised smaller offices that were not comparable to the appeal property.

iii) The comparable properties referred to by Mr Hart were up to 25 times smaller than the appeal property. Mrs Fahy stated that the larger office buildings were in a micro market and 'different beasts' to those smaller offices provided on the comparable schedules.

iv) To conclude, Mrs Fahy considered that Mr Hart had not proved his case. No evidence had been presented to suggest that the current assessment of £412,500 RV, which was in line with the 2010 Rating List assessment, was excessive. Accordingly, she sought a dismissal of the appeal.

Decision and reasons

16. 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 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

17. The panel noted that there was no rent passing on the CT3 Building as it was held on a freehold basis. WIC was held on a 25-year lease that commenced on 1 September 1999 at a rent of £255,000 pa. The rent had not increased since the lease commenced despite the provision to review. The rent on WIC devalued to £64.01/m^2.

18. The panel questioned Mr Hart on his proposed assessment of £215,000 RV, which was lower than the current rent on the WIC, which was only part of the appeal hereditament. Mr Hart believed that the WIC was currently over rented. There had been a nil uplift in the rent at review on 1 September 2014. The rent review clause stipulated that the rent was to be reviewed to the higher of the open market value or the current rent. He added that there had been a big decrease in office rental values in Wigan between 2010 and 2017.

19. The only issue that remained outstanding before the panel related to the correct main space rate to be applied to the appeal property. The appeal property was currently valued at basic main space rate of £106/m^2, which had been adjusted to £73.72/m^2 for the WIC, which was

a 1992 build and £87.98/m^2 for the CT3 Building, which was a 2001 build. The allowances applied to the main space rate reflected quality, age and partial heating.

20. In support of a lower main space rate, Mr Hart had provided two schedules of comparable offices. The first schedule comprised assessment evidence. The properties on that schedule ranged in size from 6,255.94 m^2 for Wigan MBC The Life Centre to 498.54 m^2 for Office 2 1st Floor Waterside House. The appeal property was the second largest on the schedule, having a total area of 5,946.77 m^2. The third largest property was Westgate House, Green Street Wigan. Shearings Holdings Ltd had taken part of that property; the ground, 1st and 2nd floors that totalled 1,914.34 m^2. That schedule detailed the main space rates applied to those properties for both the 2010 and 2017 Rating Lists. Mr Hart highlighted that several of those offices had seen a reduction in the main space rates applied to their assessments from the 2010 to 2017 Rating Lists.

21. The second schedule detailed rents on nine offices, one of which was the rent passing on the WIC. Those offices ranged in size from 151 m^2 to 4,023.97 m^2 (the largest being the WIC). Discounting the WIC, the panel found that of next largest office detailed was Shearings Holdings Ltd at 1,914.34 m^2. The remaining seven offices ranged in size from 151 m^2 to 721.4 m^2, which equated to a size differential of up to 39 times that of the appeal property.

22. Mrs Fahy had stated that the appeal property was a 'different beast' to the comparable offices provided by Mr Hart. She added that large office blocks had their own micro market. Mr Hart accepted that his comparable properties were smaller than the appeal property, even the premises occupied by Shearings Holdings Ltd. Mr Hart explained that an office block of the appeal property's size would generally attract a Head Office or a large corporate operator and provided their own specific niche market.

23. When considering the premises vacant and to let, the panel concluded that the hypothetical tenant of the smaller offices would not consider placing a rental bid on the significantly larger appeal property. As such, the panel placed little weight on the rental schedule. Whilst Mr Hart had provided a vast amount of evidence, unfortunately, the panel found the majority of those offices to be irrelevant in the appeal before it.

24. The one property that the panel did find comparable to the appeal property was Wigan MBC The Life Centre, which was slightly larger than the appeal property at 6,255.94 m^2. This property had been valued at a basic main space rate of £100/m^2 in the 2017 Rating List. When comparing the basic main space rate applied to Wigan MBC The Life Centre, it suggested to the panel that the basic main space rate of £106/m^2 applied to the appeal property was fair and reasonable. That basic rate had been applied to both the WIC and the CT3 Building, with various allowances for age, quality and partial heating having been adopted, which resulted in adjusted main space rates of £73.72/m^2 for WIC and £87.98/m^2 for the CT3 Building.

25. To conclude, the panel found the appeal property to be a large Head Office type office complex that was in a totally different market to the smaller local offices referred to by Mr Hart. On the evidence presented, the panel was not persuaded that the existing assessment of £412,500 RV, with effect from 1 April 2017 was unreasonable.

26. Accordingly, the panel dismissed the appeal.

Appeal Number: CHG100098566
Dated: 28 June 2021