THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; warehouse and premises; price per m^2 in dispute; rental evidence; comparable properties; appeal dismissed.

Re: Unit 2, Dunlop Way, Queensway Industrial Estate, Scunthorpe, DN16 3RN

APPEAL NUMBER: CHG100113652

BETWEEN	Harlequin Office Furniture Ltd	Appellant
	and	
	Mrs J Moore (Valuation Officer)	Respondent

PANEL: Mr M Aspinall (Senior Member)
Mrs L M Stuart

CLERK: Mrs A Keohane

REMOTE HEARING ON: Thursday 14 January 2021

APPEARANCES: Mr J Abbott of Altus Group on behalf of the appellant
Mr A Gausden on behalf of the Valuation Officer

Summary of decision

1 Appeal dismissed. The panel found the existing assessment of £62,500 rateable value (RV) was not unreasonable.

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 was a 2017 rating list appeal. Unit 2, Dunlop Way, Queensway Industrial Estate, Scunthorpe, DN16 3RN, (the 'appeal property') was entered in the 2017 rating list as 'warehouse and premises', £62,500 RV with effect from 1 April 2017.

5 The challenge proposal was received by the Valuation Officer on 25 July 2019. The Valuation Officer issued a challenge case decision notice on 19 August 2020, stating that based upon the evidence and information available, the rating list entry was considered to be reasonable and no change would be made.

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

7 The appeal property is a detached industrial steel portal framed building with a profile metal roof, occupied by the appellant as a warehouse and premises. It was constructed in the early to mid 1980's and is situated on the Queensway Industrial Estate, 3 miles south east of Scunthorpe with good connections to the national road networks. The property is of 2656m^2, equating to 2224m^2 in terms of main space (ITMS) and is held on a freehold basis; therefore, no rental evidence is available.

8 Mr Abbott was appearing on behalf of the appellant as both advocate (in relation to the appeal property and the comparable properties) and expert (in relation to valuation issues). 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).

9 Mr Abbott 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 would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported his client's case.

10 The panel 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.

11 Within the evidence submitted by Altus Group reference was made to a preliminary issue. Mr Abbott confirmed that the preliminary issue was no longer being pursued.

12 This document is not intended as a verbatim report of the proceedings, nor is it proposed to reproduce the parties' evidence in full. The absence in this decision of a reference to any statement or item of evidence submitted by the parties should not be construed as an indication that it has been overlooked by the panel.

Issue

13 The issue in dispute related to the main space price to be adopted in the appeal property's assessment.

14 Mr Abbott sought a revised valuation of £50,000 RV based on £22.50/m^2. The Valuation Officer maintained that the present assessment of £62,500 RV based on £28.10/m^2 was reasonable.

Evidence and submissions

15 Mr Abbott referred to two valuation schemes applied to properties in the appeal property's locality; 412194 related to properties built between 1981 -1990, in which the appeal property was placed, and 412291 for properties built after 1990.

16 Mr Abbott discussed three pieces of evidence relating to rents that had been agreed around the antecedent valuation date (AVD) for properties within the appeal property's scheme and to which the Valuation Officer had attached very little weight. This evidence related to Unit 3 Menasha Way, Unit 2 Menasha Way and Unit 2 Arkwright Way, properties of between 506m^2 and 8,357m^2 ITMS. When analysed these rents equated to main space rates of between £17.49/m^2 and 25.93/m^2. As the appeal property, being of 2224m^2 ITMS, fell between these properties, the proposed price of £22.50/m^2 was not considered to be unreasonable.

17 Mr Abbott contended that the appeal property had been incorrectly valued in line with properties built from 1990 on Eastgate Park, a separate development within the Queensway Industrial Estate. The rental evidence provided by the Valuation Officer was for superior units and there was a clear distinction between the value of units constructed in the 1980s and the 1990s. Mr Abbott argued that the properties on Eastgate Park were more akin to those within scheme reference 412291; consequently, their values were not reflective of the subject property.

18 Mr Gausden explained that the Queensway Industrial Estate had been established in 1983 as an Enterprise Zone and properties were built between 1984 and 1992/3. He considered the appeal property to be a good quality building with good access, and comparable to properties on Eastgate Park, built around 1990. The scheme in which the appeal property was placed incorporated properties built between 1980 - 1990 and it appeared that there had been little change to values for properties within the scheme.

19 Mr Gausden submitted a schedule relating to comparable properties within the same scheme as the appeal property on Queensway Court, Eastgate Park and Menasha Way. Rents for these properties agreed between 2013 and 2015, had analysed to between £27.59/m^2 and £80.28/m^2 and the valuations had been based on main space rates of between £27.50/m^2 and £70/m^2. Mr Gausden

contended that the appeal property had been consistently assessed in line with the 'basket of rents' available for properties within its scheme. With regard to Mr Abbott's comments in relation to the comparability of properties on Eastgate Park, Mr Gausden confirmed that the appeal property had been valued together with properties on Eastgate Park for the 2005 and 2010 rating lists, which suggested that over time it had been accepted that these were comparable.

Decision and reasons

20 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) 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 was 1 April 2017.

22 In the absence of any rental evidence for the appeal property, the panel considered the rental evidence of the comparable properties and the assessments they had been ascribed in the 2017 rating list.

23 Mr Abbott relied on rents of the properties he had provided leases/details for that were also within the appeal property's scheme. Briefly, these were:

a) Unit 3 Menasha Way, DN16 3RT. This was a similar aged unit of 506m^2 ITMS that had been subject to a rent effective from April 2015 at £3,500 for five months then £14,000pa. This rent had analysed to £25.93/m^2.
b) Unit 2 Menasha Way, DN16 3RT. A similar aged unit of 815m^2 ITMS subject to a rent of £20,000pa with effect from March 2014. This rent had analysed to £24.53/m^2.
c) Unit 2 Arkwright Way, DN16 3RT. A property of 8357m^2 ITMS. It had been subject to a rent effective from October 2015, at £86,000 for one and a half years then £172,000pa. The rent analysed to £17.49/m^2.

24 Mr Gausden referred to the details of a number of comparable properties; these included the rental details for 1st and Ground Floors at Prince House, DN16 3RT. After considering these, the panel rejected this rental evidence; given they were offices and premises and valued on an office basis. Within the evidence, it had been indicated that the rents of the Eastgate Park properties included some form of charge that inflated them slightly. Comments in relation to this as outlined in the submission, together with the details of Mr Gausden's remaining comparable properties were as follows:

a) Unit 11 Eastgate Park, DN16 1AL. A property with a total significant area (TSA) of 207.12m^2. The rent, effective from July 2015, was £11,154pa, which analysed to £53.85/m^2. Its assessment was based on £39.60/m^2. Without the service charge, the rent of this property equated to £50.69/m^2.

b) Unit 6 Eastgate Park, DN16 1AL. A property of 386.05m^2 TSA. The rent was £18,870pa, effective from 1 December 2015, which analysed to £48.88/m^2; its assessment was based on £36.30/m^2. Without the service charge, the rent equated to £45.72/m^2.

c) Unit 5 Eastgate Park, DN16 1AL. A property of 1303.12m^2 TSA, let at a rent of £40,000pa with effect from October 2014. The rent analysed to £29.22/m^2 and its assessment was based on £28.75/m^2. The rent analysed in line with the Form of Return equated to £33.32/m^2.

d) Units 3/4 Eastgate Park, DN16 1AL. A property of 1638m^2 TSA with an adjusted rent of £54,953pa, effective from March 2013. The rent analysed to £30.10/m^2 and its assessment was based on £28.10/m^2. This analysis was based on the Form of Return and seemingly without the service charge.

e) Units 5&7 Menasha Way, DN16 3RT. A property of 2113.31m^2 TSA, let at a rent of £60,000pa with effect from December 2015. The rent analysed to £27.59/m^2 and its assessment was based on £27.50/m^2. Mr Abbott contended that the Valuation Officer had incorrectly analysed the rent for this property; he believed when analysed correctly it resulted in a price of £24.49/m^2.

25 From the evidence, the panel noted that the appeal property was in a good location, at the entrance to the estate and had good links to the road network. From photographs it was also established that the appeal property appeared to be of good quality. Mr Abbott had placed a great deal of weight on the unsuitability of the comparable properties on Eastgate Park; given they had been constructed from 1990 onwards. The panel found it difficult to confirm the pertinent differences between the appeal property and those on Eastgate Park, given the absence of photographs confirming factors such as character, nature and quality.

26 Location plans had been appended to the leases provided by Mr Abbott so the panel had knowledge of the proximity of the appeal property to Menasha Way and Arkwright Way. The only photographs provided were included in the lease for 3 Menasha Way and these were not considered to be helpful as they showed close ups of areas of this comparable property, both internally and externally, that were damaged or in poor repair. Consequently, they did not give an accurate picture of the unit as a whole and as the lease was dated April 2015, it was likely that these photographs had been taken around that time; therefore they were not necessarily reflective of factors at the material day.

27 After due consideration, the panel found no compelling reason to disregard the evidence of the comparable properties on Eastgate Park that had been placed within the same scheme as the appeal property. It did, however, consider that very little weight should be placed on the comparable property at 2 Arkwright Way; given it was a unit of 8357m^2 ITMS, substantially larger than the appeal property, and would be valued at a lower rate to reflect quantum.

28 Having regard to all of the evidence, the panel considered the best evidence in this appeal was that of the comparable properties closest in size to the appeal property, namely, 5 Eastgate Park, 3/4 Eastgate Park and 5&7 Menasha Way. The rents for these properties had been set between March 2013 and December 2015 and analysed to prices of between £24.49/m^2 (the representative's analysis

of the rent for 5&7 Menasha Way) and £30.10/m^2. The assessments of these properties were based on main space rates of between £27.50/m^2 and £28,75/m^2. This did not suggest to the panel that the appeal property's assessment based on £28.10/m^2 was unreasonable.

29 Ultimately, the onus was on the appellant's representative to demonstrate that the appeal property's existing assessment was unreasonable, and the panel was not persuaded that he had done so. Accordingly, the appeal was dismissed.

Date: 27 January 2021

Appeal Number: CHG100113652