THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; workshop and premises; comparable properties; tone of the list; appeal allowed in part.

Re: Building 105E Aviation Business Park, Bournemouth Int Airport, Hurn, Christchurch, Dorset, BH23 6NW

APPEAL NUMBER: CHG100113974

BETWEEN: Premier Shipping and Packing Limited Appellant

(represented by Altus Group)

and

Mr D Virk Respondent

(Valuation Officer)

BEFORE: Mrs J Ellis (Senior Member sitting alone)

CLERK: Mrs A Sloan

REMOTE HEARING: 20 July 2021

PARTIES PRESENT: Mr J Fitzgibbon (Appellant's representative)

Mr S Lewis (Valuation Officer's representative)

Summary of decision

1. The appeal was allowed in part. The rateable value was reduced to £68,000 effective from 1 June 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. The hearing was conducted via Microsoft Teams and I was satisfied that both parties were fully able to participate in the hearing.

4. In accordance with the Tribunal's business arrangements, I had been authorised to consider and determine this appeal alone.

5. The appeal was brought in respect of the entry in the rating list shown as Building 105E Aviation Business Park (the subject property). The subject property is a workshop and premises originally recorded as measuring 1234m^2 at the date of its entry in the list. The hereditament was reconstituted from the entry shown as Pt Bldgs 105 and 105a and Bldg 353 Bournemouth International Airport, Hurn, Christchurch, Dorset, BH23 6DT with effect from 1 June 2017.

6. The subject property is a single storey industrial unit of steel frame construction. It is semi-detached with an eaves height of 8m and a roller shutter door, situated close to Bournemouth Airport.

7. This is a 2017 Rating List appeal. The proposal was submitted by the Appellant's representative on 26 July 2019, against the 2017 RV assessment of £68,500. The challenge decision notice from the VO was dated 21 November 2020, refusing to reduce the RV to £48,000 as sought by the Appellant but stating a reduction to £68,000 was reasonable and the RV was reduced accordingly the same day. The Appellant disagreed and an appeal was lodged with the Tribunal on 18 March 2021.

8. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that I fully considered all the evidence presented before coming to a decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

9. The issue before me was to determine the correct RV for the subject property at the material date of 1 June 2017.

Evidence and submissions

10. Mr Fitzgibbon had, in his expert witness report, declared that he was acting in a dual role, as expert witness and advocate, and that his firm will receive a conditional fee or some other success related arrangement if the rateable value is reduced as a result of my decision. However, he had also declared that he understood and accepted that his duty is to the Tribunal in giving his evidence and he would comply with this, regardless of whether or not the evidence supports his client's case.

11. I 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 is allowable due to the Tribunal's rules on admissibility of evidence (reg 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). I therefore considered the "expert" evidence and assessed what weight I should give to it in the context of the matters in issue before me.

12. The evidence bundle provided to me comprised all of the documents exchanged between the parties as part of the challenge process, following the Appellant's proposal to alter the entry in the 2017 rating list.

13. Mr Fitzgibbon argued that the base rate for the subject property's valuation was too high and should be reduced to £42/m^2, resulting in a revised RV of £48,000. In support of this he referred to rents on the subject property plus Building 603 Bournemouth International Airport, 1074 Aviation Park West and Pt Building 101 Bournemouth International Airport.

14. Mr Lewis, for the VO, was also acting as expert witness and advocate in this matter. He explained that, during the course of the challenge process, it was discovered that there existed an additional store attached to the subject property, measuring 44m^2. This store had not been identified during the check stage and the Appellant had not been able to confirm when the store was constructed. The VO had therefore assumed the store was in place when the 2017 valuation list began. The new measurement for the subject property, including the store, was 1278m^2. Both parties confirmed to me during the hearing that this measurement was correct, and this size should be considered at the material date.

15. After considering the evidence exchanged during the challenge, the VO considered that a reduction in RV was justified and the base rate for the subject property should be reduced from £60/m^2 to £57.50/m^2 (£53.30/m^2 after allowances for heating and insulation). This resulted in a reduction in RV to £68,000.

16. In support of his case, Mr Lewis referred to three properties on Bournemouth International Airport for comparison, namely I-Koncept Ltd Building 268, Building 45 and the warehouse at 397 Bournemouth International Airport.

Decision and reasons

17. In deciding this appeal, I was bound by the governing legislation. The term 'rateable value' is defined in paragraph 2(1), 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".*

18. The antecedent valuation date (AVD) for all 2017 list rating appeals is 1 April 2015. The Material Date in this case was 1 June 2017, this being the date that the hereditament was reconstituted from the earlier assessment.

19. In accordance with the principles set out in Lotus and Delta I considered the rent for the appeal property as this would be the starting point. This was a new letting from 1 June 2017 for a term of ten years with five yearly reviews on a stepped basis with the landlord responsible for external repair. There was a three-month rent-free period. The rent analysed to £49.68/m^2. I attached some weight to this rent but, given it had been agreed after the AVD and did not conform to the rating hypothesis being a stepped rent, I could not find it to be conclusive of the correct RV. I therefore looked to the rents of comparable properties for assistance.

20. Building 45 Bournemouth International Airport had two rents provided. The first was a rent review at £56,000 on 1 June 2014, with the landlord responsible for insurance, which analysed to £55.38/m^2. The second was a lease renewal on 1 February 2016 on full repairing and insuring terms set at £56,000 which analysed to £57.39/m^2. I appreciated that lease renewals and rent reviews would hold less weight than new lettings, but I considered the 2016 rent did support the main space price proposed by the VO for the appeal property given this property had been valued at £60/m^2.

21. I attached little weight to the rental evidence in respect of I-Koncept Ltd Building 268. Whilst this was an open market letting which was on all fours with the rating hypothesis, it had been agreed three years after the AVD. I was of the opinion that this was therefore too far removed to provide reliable assistance.

22. The rent review for 397 Bournemouth International Airport was agreed on 1 March 2017, on full repairing and insuring terms, and analysed to £68.83/m^2. This was a much smaller property measuring 767.50m^2 in size with a main space price of £60/m^2. Whilst smaller than the appeal property I considered that this also supported a rate of £57.50 for the appeal property.

23. Mr Fitzgibbon had referred to asking rents from brochures dated June 2016 for Part Building 101. I attached no weight to the marketing brochure provided as the rents a landlord may hope to achieve are not good evidence of what a tenant would actually pay.

24. Also mentioned in Mr Fitzgibbon's case were the renewal rents for 106 Blue Zone and Building 266 from 1 July 2016. These properties measured 1273.22m^2 and 1622.68m^2 respectively and were valued using a base rate of £55. I considered these supported the reduction to £57.50/m^2 proposed by the VO.

25. Building 603, Bournemouth International Airport had let on 1 October 2014 at a rent of £100,000 per annum. This was a new letting for a larger property measuring 1964.06m^2. Mr Fitzgibbon had devalued this rent to £40/m^2 whilst the VO had analysed this to £50.92/m^2. The VO held conflicting information on this unit as the occupier had provided different information regarding the lease on the forms of return. An unsigned draft of the lease was provided so it appeared that the actual rent and terms agreed could not be verified. This hereditament had since been deleted from the list as it was undergoing redevelopment. I did not find this example a useful comparison to the subject property and placed little weight on it.

26. Having considered all the evidence provided I was of the opinion that the VO's proposed rate of £57.50 for the appeal property was the correct level of value.

27. It was apparent that whilst Mr Lewis stated at the hearing that the effective date for the reduction to £68,000 RV already actioned had been 1 June 2017, this was not correct. The evidence submitted with the appeal made reference to the rating list being altered from November 2020. I noted that Mr Fitzgibbon had included a summary valuation in his expert witness report showing the current 2017 rating assessment being £68,500 from 1 June 2017 to 22 November 2020. I therefore concluded that the RV had been reduced by the VO from 23 November 2020 and the appeal was therefore allowed in part to correct the effective date.

Order

28. 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 amend the entry for Building 105E Aviation Business Park, Bournemouth Int Airport, Hurn, Christchurch, Dorset, BH23 6NW in the 2017 Rating List to £68,000 effective from 1 June 2017.

The Valuation Officer must comply with this Order within two weeks of its making.

Any fee paid will be refunded in full in accordance with regulation 13E.

Date: 9 August 2021 **Appeal number:** CHG100113974