THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal – Price per m² to be adopted – rental evidence – weighting of evidence – settlement of appeal on same development – only one other challenge – had the price per m² been established as a tone – appeal dismissed

Re: Building 4, 2nd Floor, Trentside Business Village, Farndon Road, Newark,

NG24 4XB

APPEAL NUMBER: CHG100115061

BETWEEN:	Magnus Educational Foundation	Appellant
	and	
	Valuation Officer	Respondent
PANEL;	Mr C Aggrey (Senior Member)	
	Mr A Wheeler	
CLERK:	Mr A Jolly	
REMOTE HEARING:	Wednesday 22 September 2021	
APPEARANCE:	Mr S Bicknell of Brown and Co representing the occupier Magnus Educational Foundation (appellant)	
	Ms S Howson representing the Valuation Officer (respondent)	

Summary of decision

1. Appeal dismissed. Rateable Value £38,750 confirmed as correct with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: The appeal was lodged by Brown and Co on behalf of the occupier on 12 May 2021 in response to the Valuation Officer's Notice of Challenge Decision dated 14 January 2021 confirming RV £38,750 with effect 1 April 2017.

3. 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.

4. 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.

5. In accordance with that Practice Statement, the panel conducted the hearing of this appeal remotely via Microsoft Teams conference call using audio/video-link. For the avoidance of any doubt, the panel was satisfied that those present at the hearing were able to fully participate in the proceedings.

6. 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.

7. Mr Bicknell 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 Bicknell’s declaration of truth included a statement that he was instructed under any conditional fee arrangement.

8. Mr Bicknell 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.

9. 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).

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

11. The appeal hereditament was located on the second floor in one of four mid-sized office buildings making up Trentside Business Village that had been built in 2007. All four buildings were similar with offices located on the first and second floors and car parking located on the ground floor. Each suite benefited from air conditioning, raised floor and gas central heating. The internal finishes included plastered walls, suspended acoustic tiled ceilings and recessed electric stripped lighting. The Business Village was located on the edge of Newark town centre and next to the A46 bypass.

12. The property had been entered into the 2017 Rating List at RV £38,750 with effect 1 April 2017. In his initial decision notice the Valuation Officer had increased the RV to £41,750 but following further communications between the parties the Valuation Officer reduced the RV back to £38,750 with effect 1 April 2017 in his Challenge Decision Notice.

Issues

13. The issue before the panel concerned the price per m² to be adopted and subsequently the RV to be adopted having regards to the rental evidence available.

Evidence and submissions

14. Mr Bicknell stated that Trentside Business Village was built in 2007 and was the first business village in the area. Between 2010 and 2013 further office accommodation was built within the locality which increased office space by 55%. He stated that since 2013 values within Trentside Business Village had fallen and he considered from the rental evidence that values remained low. He had provided rental evidence of new lettings in support of his contention that the price per m² should be £80. He accepted that the rental evidence was not from the antecedent valuation date (AVD) but from 2013 and 2017. His rental evidence analysed to value between £66.92 and £88.58 per m².

15. Mr Bicknell also referred to a marketing report from October 2016 for the appeal property which was then jointly marketed together with Brown and Co. He stated that the marketed rent analysed to £79.93 per m². He also referred to a five year lease for Unit 2 Trentside Business Village from sometime in 2014 which he had analysed to £76.80 per m². He accepted that this information was hearsay evidence and therefore limited weight could be attached to this 2014 rent.

16. Mr Bicknell stated that whilst the Valuation Officer's had provided rental evidence from close to the AVD which supported the adopted price per m². This was from rent reviews which he considered should be treated with caution as the Landlord may be in a superior position than the tenant. He stated that the landlord knows that the tenant may not wish to leave the premises with the cost involved in doing so. He provided details of an existing tenant who did not renew their lease at the end of term even though the Landlord had offered to reduce the rent to £80 per m².

17. Ms Howson stated that she was familiar with the locality and that the appeal property was located in one of four office buildings built in 2007. She informed the panel that there had been only two challenges to the entries in the 2017 Rating List for Trentside Business Village, one of which accepted the price adopted when agreeing a merge of two of units and the appeal before the panel. She accepted that the other challenge which had been agreed concerned a merger of two units but she still considered it supported her contention that £116.14 per m² was correct and the price per m² had not been challenged.

18. In support of her contention that the current entry in the Rating List of RV £38,750 was correct she referred to rental evidence from 2015. She accepted that the rental evidence was from rent reviews but she was satisfied that they were not from connected parties. These rents analysed to £112.85 and £133.74 per m².

19. Ms Howson considered the appellant's representative rental evidence being from 2013 and 2017 was too remote from the antecedent valuation date and therefore less weight should be applied. She also stated that some of the evidence was either hearsay or conjecture and therefore could not be relied upon. She was satisfied that from the 2015 rental evidence the current RV was correct and requested that the panel dismiss the appeal.

Decision and reasons

20. The issue before the panel concerned the price per m² to be adopted for the appeal hereditament. In order to support their contentions both parties provided rental evidence from 2013, 2015 and 2017. The panel was aware that the AVD was 1 April 2015 with the material day being 1 April 2017.

21. The appellant's representative had provide evidence of new lettings in 2013 and 2017 which he had analysed to £66.92 and £88.58 per m² but did not have any rental evidence from 2015. The Valuation Officer had provided evidence of rents from 2015, albeit from rent reviews, which she considered supported the price of £116.14 per m² being adopted.

22. Whilst the panel accepted that the rental evidence from 2013 and 2017 showed values around the price per m² sought by the appellant's representative they did not show values at the AVD nor did they show a pattern of values between 2013 and 2017.

23. The panel would normally accept that new lettings carried more weight than rent reviews but in this instance the new lettings did not provide sufficient evidence of values at the AVD being from 2013 and 2017.

24. The panel also considered the other evidence submitted by the appellant's representative in relation to marketing of the unit and a hearsay evidence of a 2014 rental agreement. Whilst all evidence was acceptable before a Valuation Tribunal it considered that minimal weight should be placed on this information as it was not supported by actual evidence of lettings.

25. The panel then considered the Valuation Officer rental evidence. Whilst these related to rent reviews they were from close to AVD and therefore the panel considered provided the most compelling evidence. These two rents, which had analysed to £112.85 and £133.74, supported the value adopted by the Valuation Officer.

26. The panel also considered that at the time of the hearing there had only been two challenges to the 2017 Rating List for properties within Trentside Business Village with the appeal before it being one of the challenges and the other challenge concerning the request for a merger of two units and did not concern the price per m² adopted. The panel considered that this supported that there had been an acceptance of the price per m² adopted by the Valuation Officer.

27. From all the evidence the panel had not been persuaded by the appellant's representative that the current RV of £38,750 was incorrect and accordingly the appeal was dismissed.

Date: Wednesday 6 October 2021

Appeal number: CHG100115061