THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list; offices; rental evidence in relation to the appeal property and properties cited as comparable; appeal allowed in part.

RE: Level 4, East Reach House, Taunton, Somerset TA1 3HE

APPEAL NUMBER: CHG100117401

BETWEEN:	Lewis Property Services (UK) Ltd	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

BEFORE: Ms C Caiquo (Senior Member)

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.1 on 23 August 2021

APPEARANCES: Mr N Atkinson (Appellant's representative)
Ms C Downs (Respondent's representative)

Summary of decision

1. Appeal allowed in part. The rateable value was reduced to £12,250 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 relevant legislation[1]. The VTE may determine the form of any hearing.

3. Therefore, in pursuance of the relevant regulation[2] 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. Under Tribunal Business Arrangements, I could hear this appeal alone, as the other member selected to attend this hearing was unable to participate and a replacement member could not be found at short notice.

5. This appeal has been brought in respect of the following: Level 4, East Reach House, Taunton, TA1 3HE (the 'appeal property'). It was initially entered in the 2017 rating list as 'offices and premises', rateable value £17,750 effective from 1 April 2017.

6. A proposal challenging the rating list entry was made which sought a reduction to rateable value £10,105. An effective date of 1 November 2018 was quoted (this being the date the appellant acquired the appeal property) but the challenge was against the entry in the list on 1 April 2017. In response to the proposal, the Valuation Officer decided to reduce the rateable value to £16,750 effective from 1 April 2017.

7. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Mr Atkinson made an appeal to this Tribunal on the grounds that the valuation for the appeal property is not reasonable[3].

8. 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 me 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.

Preliminary matter

9. Ms Downs explained that the Valuation Officer had received a form of return in respect of the appeal property on 18 August 2021. It had been completed by the occupiers who were chartered accountants. She said that the information provided did not accord with that provided by Mr Atkinson. There were differences in the number of steps and the amount for services.

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[1] 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).
[2] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).
[3] Regulation 13A(2) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009.

10. Ms Downs requested an adjournment with a direction to receive a copy of the lease in respect of the appeal property, then to be able to resubmit her case based on the form of return. In her view, the rent was fundamental to the appeal.

11. Mr Atkinson was not aware that this matter was to be raised as a preliminary matter. He had included the rent as part of his evidence but said that it was agreed from 1 August 2019. He did not consider the evidence to be primary or crucial to the appeal. He said that he had acted as a letting agent and was aware that services were included in the rent.

12. My clerk advised me that Ms Downs was prevented from relying on the evidence acquired from this form of return because regulation 17(4)[4] required the Valuation Officer to give not less than two weeks' notice to the other party to the proceedings. He also reminded me that the rules of evidence in respect of 2017 rating list appeals were much stricter than in previous rating lists. He said that the VTE's standard directions, which include the relevant legislation, only permit further evidence if written application is made at least four weeks before the hearing. The further evidence would have to relate to the ground on which the proposal was made, was not known to the party and could not reasonably have been acquired by the party before the proposal was determined. The only other way to introduce new evidence was if both parties agreed that it could be included.

13. Mr Atkinson did not agree to the inclusion of the form of return because he did not believe it to be accurate.

14. When asked, Ms Downs said that the form of return had been sent to the occupier on 5 August 2021. An earlier one had been sent on 25 September 2018 but had not been returned. She also said that there was no follow up action taken when such forms were not returned but informed me that the appellant was not in occupation at that date.

15. After considering the matter, I have decided not to allow an adjournment and to refuse the admittance of new evidence. In reaching this decision I have had regard to the lack of agreement between the parties over its inclusion and also note that Mr Atkinson has been taken by surprise by Ms Downs' request at this hearing. Further, I am not satisfied that the Valuation Officer could not have acquired this evidence earlier; it could have been sought before deciding on the merits of the challenge proposal. In any case, regulation 17(4) prevents such evidence to be used by a Valuation Officer unless two weeks' notice is provided.

Issues

16. Mr Atkinson believed that rateable value £16,750 was excessive. He sought a reduction in the basic price within the valuation from £110/m^2 to £65.70/m^2.

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[4] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation

Evidence and submissions

17. The evidence from the parties included rental evidence and analysis in respect of the appeal property and properties cited as comparable, the existing valuation, comparable rating assessments, photographs, plans, detailed rental analysis from Mr Atkinson, correspondence between the parties and the rateable value definition.

18. Both parties were able to participate in the hearing, with no problems with technical equipment or software. Each party was given the opportunity to question the other party.

Decision and reasons

19. For the purposes of this appeal, the term ‘rateable value’ is defined in 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 –
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> (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;
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> (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 all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

21. Mr Atkinson said that the appeal property is at the top of the building and built into the mansard roof. It has an area of 153.8m^2. He stated that there are areas behind pillars and there is poor natural light. The whole building (1,910m^2) has one six-person lift, which he considered insufficient by contemporary office standards. He argued that the occupier of Level 4 would suffer the most from the lift capacity.

22. Mr Atkinson had devalued the rent in respect of the appeal property, a new letting from 1 August 2019, as £67.87/m^2. As the rent was more than four years after the AVD, Mr Atkinson had not given it the greatest weight. However, he said that all the rents in the building had remained reasonably consistent between December 2013 and December 2020, showing no growth.

23. To support the appellant's case, Mr Atkinson relied on the rents in respect of three comparable properties.

24. Firstly, the rent for Level 1, East Reach House from March 2014 analysed to £73.41/m^2. Mr Atkinson considered this to be the most supportive evidence because Level 1 had no access difficulties since the occupiers did not have to use the lift. Ms Downs stated that the Valuation Officer had assessed it at £75/m^2 and that this was because it was three times larger than the appeal property.

25. Secondly, Mr Atkinson had devalued the rent in December 2013 for Ground Floor, Langford House, 108 East Reach to £72.99/m^2. He considered this to be strong evidence. After adjusting for repairs, the Valuation Officer analysed this rent as £65.94/m^2.

26. Thirdly, the rent for Second Floor, 61-52 High Street from July 2016 devalued to £82.20/m^2. Ms Downs gave this little weight because it was an office above a shop rather than one in an office block.

27. I noted that Mr Atkinson had provided a full breakdown of all his rental analysis and, when asked, gave full details of the service charge which included external repairs, all decoration, cleaning, the upkeep of two stairwells, toilets, lift maintenance, entrance hall, security, electricity for common parts and landscaping.

28. The Valuation Officer had provided five rents including Level One, East Reach House. Ms Downs said that she had not drafted the Valuation Officer's decision. She accepted that the salon at Quadrant Court should not have been included. This left three other rents.

29. Osborne House, 2-4 Trull Road had a rent from November 2014 which devalued to £104.83/m^2. It had been assessed at £75/m^2. I noted that it was significantly larger than the appeal property. Mr Atkinson was familiar with the property; he said it had better accommodation, location and layout. Ms Downs had not viewed it.

30. Sussex Lodge, 44 Station Road had been let on the AVD at a rent which devalued to £84.71/m^2. Number 29 Park Street was also let in April 2015 at a rent which analysed at £124.60/m^2. Both properties had been assessed at £110/m^2. I appreciate the relevance of this evidence because both comparable properties were closer in size to the appeal property.

31. However, there were some shortcomings with the Valuation Officer's evidence which Mr Atkinson highlighted. He said that none of the Valuation Officer's

comparable properties were close to the appeal property, other than Level 1. The others were at least 0.5 mile away. Three of the Valuation Officer's comparable properties were in the town centre, whereas East Reach House was at the fringe of the town centre on the main arterial route from the M5 motorway.

32. In addition, none of the Valuation Officer's comparable properties were in multi-let buildings. They were all self-contained with their own front door.

33. In view of the foregoing, I gave less weight to the Valuation Officer's comparable evidence.

34. I also gave little weight to the rental evidence for the appeal property as it was more than four years after the AVD.

35. Having considered all the comparable evidence I noted that none of it was perfect and each office could be distinguished from the appeal property in terms of either size, location, or type of office (self-contained or in a multi-let building). I found Mr Atkinson's comparable properties to be the more relevant as he had concentrated on other offices in the same building or very near to the appeal property.

36. The rental evidence for Ground Floor, Langford House, 108 East Reach and Second Floor, 61-52 High Street was also good evidence as the rents were reasonably close to the AVD and they were in either the same building or location. Noting the physical drawbacks at the appeal property with natural light and so on, the evidence persuaded me that £110/m^2 was far too high.

37. However, I considered Mr Atkinson's proposed unit price of £65.70/m^2 to be too low. This was because the rent on Level 1, East Reach House was just over a year before the AVD and analysed to £73.41/m^2. This was an office which was three times larger so I considered that the rent on the appeal property would be higher than this. I have therefore decided to adopt £80/m^2 in the valuation for the appeal property. This results in the following valuation:

Description	Area (m^2)	£ per m^2	Value (£)
Office	43.50	80.00	3,480
Office	11.60	80.00	928
Office	38.70	80.00	3,096
Office	9.30	80.00	744
Office	39.40	80.00	3,152
Office	11.30	80.00	904
Staff toilets	N/A		
Staff toilets	N/A		
		Sub-total	12,304
		Rateable value	12,250

38. The appeal was therefore allowed in part.

Order

39. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to rateable value £12,250 with effect from 1 April 2017.

40. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fee

41. As the ground of the appeal (namely the valuation for the appeal property was not reasonable) has been made out, the appeal fees are to be refunded in full in accordance with regulation 13E(1) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. This will take approximately six weeks to process.

Date: 21 September 2021

Appeal number: CHG100117401