THE VALUATION TRIBUNAL FOR ENGLAND

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

RE: Corner of Parkhurst Road, Camden Road, London, N7 0SH

APPEAL NUMBER: CHG100120083

BETWEEN:	Nexlynn Ltd	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

BEFORE: Ms C Caiquo (Chairman)

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.1 on 23 August 2021

APPEARANCES: Mr A Watson of Rapleys LLP (Appellant's representative)
Mr R Shaw (Respondent's representative)

Summary of decision

1. Appeal dismissed. No change was made to the rateable value of the property.

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: Corner of Parkhurst Road, Camden Road, London, N7 0SH (the 'appeal property'), which was entered in the 2017 rating list as 'workshop and premises', initially at rateable value £24,250 effective from 1 April 2017. The Valuation Officer had then amended the entry to rateable value £28,250 from 22 July 2019.

6. A further alteration to the rating list had been made by the Valuation Officer to revise the entries to rateable value £23,500 effective from 1 April 2017 and £27,500 from 22 July 2019.

7. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Mr Watson made an appeal to this Tribunal because the Valuation Officer has decided not to alter the 2017 rating list following the appellant's proposal to alter the entry to £20,000 with effect from 1 April 2017.

8. The appeal to this Tribunal has been made on the grounds that the valuation for the appeal property is not reasonable[3].

9. 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.

Issues

10. The Valuation Officer believed that the original 2017 rating list entry had undervalued the appeal property. He had increased the basic price from £90/m^2 to £115m^2 resulting in a higher rateable value from 22 July 2019.

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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.

11. The appellant believed the rateable value should be in line with the rent on the appeal property which was £20,000 from 25 December 2016.

Evidence and submissions

12. The evidence from the parties included rental evidence in respect of the appeal property and properties cited as comparable, valuations, comparable assessments, photographs, an aerial image, lease summary and rateable value definition.

13. Some of Mr Watson's photographs did not appear in the evidence pack provided to the Tribunal member and clerk. However, the missing photographs and further lease summary were circulated during the hearing.

14. With the agreement of Mr Watson, Mr Shaw was allowed to introduce a further photograph.

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

Decision and reasons

16. 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 –
>
> (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."

17. 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).

18. Both parties have highlighted the Lands Tribunal decision of *Lotus and Delta Ltd v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA141, which provides guidance on the weight to be attached to rental and assessment evidence. The rent was considered the starting point and more weight was attached to those rents closest to the statutory criteria of rateable value and which were agreed closest to the AVD. Other rents were also considered in order to confirm or otherwise the level of value indicated by the actual rent of the appeal property. Other comparable assessments were also relevant but to a lesser degree. In light of all the evidence an opinion could be formed on the rental value of the appeal property, the weight to be attributed to the different types of evidence depending on one hand on the nature of the actual rent and, on the other hand, the degree of comparability found in other properties. In those cases where there were no rents available for comparison, a review of other assessments may be helpful, but in such circumstances it would clearly be more difficult to reject the evidence provided by the actual rent.

19. Having regard to the above, I could fully understand Mr Watson's reliance on the appeal property rent. The lease had started on 1 March 1995 at £16,500 per annum. At the first review, the rent had been increased to £18,300 from 1 March 2000. The last increase in rent had been to £20,000 from 1 March 2005. The 2010 rent review had not been actioned. The latest agreement was a rent at £20,000 from 25 December 2016 for a term of 15 years.

20. However, there were two drawbacks when considering the rent on the appeal property. Firstly, the rent was agreed 20 months after the AVD. Secondly, it was not in respect of a new letting and was a tenant holding over. Thirdly, the tenant has little security of tenure as the lease contains a break clause which could be exercised by the landlord at any time with six months' notice.

21. I agree with Mr Shaw's view that it is necessary to have regard to other rental evidence. He relied on rents from other properties within the same valuation scheme. The first three concerned industrial premises at 465A Hornsey Road, London N19 4DR. The rents devalued to between £106.69/m^2 and £135.15/m^2 and had commenced from either 1 October 2014 or 4 December 2014.

22. As those three rents were all open market new lettings agreed closer to the AVD, I attached greater weight to that evidence. This was because the rating hypothesis requires an assumption that the property is vacant and to let, with a hypothetical tenant coming fresh to the scene at the AVD.

23. Having regard to the rental analysis in respect of comparable properties I did not consider £115/m^2 to be excessive. I also noted that the appeal property had been allowed a 7.5% layout allowance, which adjusted the price adopted to £106.38/m^2.

24. Having regard to all the evidence, I was not persuaded by the appellant's representative that the respondent's amended valuation was unreasonable. I therefore dismissed the appeal.

Date: 26 August 2021

Appeal number: CHG100120083