THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal – rental evidence – analysed rents – appeal dismissed

Re: Unit 15/17 Manford Industrial Estate, Erith, Kent, DA8 2AJ

APPEAL NUMBER: CHG100125537

BETWEEN:	Fireblitz Extinguisher Ltd	Appellant
	and	
	The Valuation Officer	Respondent

PANEL;	Miss L Sharkey (Senior Member)
	Mrs E Moir
CLERK:	Mr A Jolly
REMOTE HEARING:	Wednesday 13 January 2021
APPEARANCES:	Mr J Cheeseman of Altus Group representing the occupier Fireblitz Extinguisher Ltd (appellant)
	Mrs M Pathmanathan representing the Valuation Officer (respondent)

Summary of decision

1. Appeal Dismissed. Rateable Value (RV) £38,000 confirmed with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: An appeal dated 7 October 2020 against the Valuation Officer's Decision Notice dated 14 September 2020 making no change to the entry in the 2017 Rating List of RV £38,000 for the appeal hereditament. The appellant sought a reduction to RV £34,000.

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. 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.

6. Mr Cheeseman 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 Cheeseman's declaration of truth included a statement that he was instructed under any conditional fee arrangement.

7. Mr Cheeseman 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.

8. 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).

9. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

Preliminary Issue

10. In an email dated 14 December 2020 Mrs Pathmanathan stated that she had disagreed with how the original caseworker had analysed the rent on the appeal hereditament and on the comparable hereditaments and provided details of how she had analysed the rental evidence. On 6 January 2021 Mr Cheeseman informed the Tribunal that he wished to object to the inclusion of this information on the basis that it was new evidence. Mr Cheeseman also informed the Tribunal that he had not responded earlier as he had been on annual leave.

11. The panel determined that it accepted the objection, although it was outside the two weeks permitted, as the representative had been on annual leave and that it had been the Christmas period. It then considered whether to admit the new analysed rents submitted by

the Valuation Officer. The panel considered that the Valuation Officer had re-analysed the rent as she disagreed with how the original Officer had analysed them and not due to any error in how the rents had been originally analysed. The panel therefore considered that as the rents had been analysed on the evidence that had been available at the time the challenge decision notice had been issued the new analysed rents were not admissible.

Issues

12. The issue before the panel concerned the price per m² to be adopted for the appeal hereditament.

Evidence and submissions

13. The appeal hereditament was a warehouse built in the 1980s on an estate of 32 similar premises set out in two terraces. The rate per m² currently adopted depended upon the size of the property with units of up to 250 m² being valued at £67.50; units between 250 m² and 500 m² being valued at £65 per m² and units of 500 m² plus being valued at £62.50 per m².

14. Mr Cheeseman stated that the lease was reviewed on a 5 yearly basis with an upward only rent. In 2013 it was reviewed with a nil increase and in 2018 it was reviewed again but with an increase. He considered the rental evidence on the appeal hereditament to be too far removed from the antecedent valuation date of 1 April 2017. He did not consider the straight line graph to show the growth of the rent from 2013 to 2018 drawn up by the Valuation Officer to be of assistance. Also the analysed rent for Unit 22 and 24 at £150.56 per m² was out of kilter and therefore was not of assistance.

15. In support of his contention Mr Cheeseman provided details of rents and how he had analysed those rents for other units within Manford Industrial Estate. Unit 5, a unit of 260.4 m² in terms of main space (ITMS), with a lease commencing June 2014 analysed to £65.09 per m² and had been valued at £67.50 per m². Unit 19, a unit of 263 m² ITMS with a lease commencing December 2014 analysed to £60.47 per m² and had been valued at £67.50 per m². Unit 2-4, a unit of 487.67 m² ITMS with a lease commencing December 2013 with a four month rent free period analysed to £56.94 per m² and had been valued at £65.00 per m². He had analysed the 2013 rent, which was a nil increase following a review that year, to arrive at a value per m² of £63.95. He considered the best evidence to be the rental evidence relating to the new lettings on Units 19 and 2-4 Manford Industrial Estate as these were closer in size to the appeal hereditament and the closest to the antecedent valuation date. In his opinion these rents supported a price per m² of £57.50 to be adopted.

16. In support of her contention that RV £38,000 was reasonable Mrs Pathmanathan referred to the original analysed rents of the appeal hereditament. She stated that the 2013 rent, following a rent review analysed to £63.95 per m² and the 2018 rent, again following a review, analysed to £87.00 per m². Whilst 2018 was after the antecedent valuation date she considered some regard must be had to the rents passing on the appeal hereditament. She considered that the rental evidence supported £65 per m² being adopted for the appeal property.

17. As further support of her contention she referred to the original analysed rents for other Units on the industrial estate. Unit 19, a new letting from 18 December 2014 analysed to £60.47

per m² and valued at £65.00 per m². Unit 7, a new letting from March 2014 analysed to £70.25 per m² and valued at £67.50. Unit 11, a renewal of the lease from 1 October 2015 analysed to £77.03 per m² and valued at £67.50. Units 2-4, a new letting from 13 December 2013 analysed to £60.72 per m² and valued at £65 per m². Units 22 and 24, a new letting from 1 November 2014 analysed to £150.56 and valued at £65 per m².

18. In her opinion the best evidence was the rental evidence for Units 19, 7 and 11 which she considered supported £65 per m² being adopted and the RV £38,000. She sought the appeal to be dismissed.

Decision and reasons

19. The panel considered the rental evidence submitted by both parties in support of their contentions. The appellant's representative sought a reduction to RV £34,000 based on a value of £57.50 per m² whereas the Valuation Officer sought the confirmation of the current entry in the Rating List of RV £38,000 based on a price of £65 per m².

20. The rents analysed ranged from £56.94 per m² to £150.56 per m². The panel agreed that the rent for Units 22 and 24 at £150.56 per m² was out of kilter with the other rents passing and therefore placed minimum weight upon this rent.

21. In support of his contention that rental levels at the antecedent valuation were lower than the level of rent on the subject property in 2013, Mr Cheeseman had cited the analysed rent of Units 2 and 4, which was similar in size and had been a new lease from December 2013 which had analysed to £56.50 per m². The second rent he relied upon was from a December 2014 lease which analysed to £60.47 per m² for Unit 19, a unit of 259.30 m² . These hereditaments fell within the same size bracket as the appeal property.

22. Whilst the rental evidence for the appeal hereditament was from rent reviews this evidence was still of assistance. The panel noted that a condition of the lease provided upward only rent reviews and that in 2013 a nil increase had been agreed but in 2018 an increase had been agreed. Whilst the 2018 actual rent was too remote from the antecedent valuation date it was noted that rental levels had risen between 2013 and 2018.

23. The panel considered the Valuation Officer's analysed rents from the original Challenge Decision Document and as identified on the appellant's representative document showing the two parties' analysed rents. A new letting for Unit 7, from March 2014 analysed to £70.25 per m² and a renewal for Unit 11, from October 2015 analysed to £77.03 per m². The panel did note that these two rents were for smaller hereditament which were valued at £67.50 per m².

24. Whilst the appellant representative considers that rental values would be lower at the antecedent valuation date than the rent at the 2013 review the only evidence to support this was the new rents in December 2013 and December 2014. The Valuation Officer also provided rental evidence, albeit one following a rent renewal, which analysed at higher values than the value per m² adopted for both units up to 250 m² and units between 250 m² and 500 m².

25. The panel considered that having regards to the basket of rents the rental value at the antecedent valuation date would be greater than the £57.50 per m² being sought by the appellant's representative. Values appeared to be increasing between 2013 and 2014 as

per the Valuation Officer's evidence and the representative's own evidence and therefore the panel considered that at the antecedent valuation date of 1 April 2015 values would still be rising. The panel therefore considered rents would, at the antecedent valuation date, be greater than the analysed December 2014 rent for Unit 19 of £60.47 per m².

26. The panel had not been persuaded by the appellant's representative that £57.50 per should be applied. In consideration of all the evidence submitted the panel was satisfied that £65 per m² was not unreasonable. The panel therefore dismisses the appeal and confirms the entry in the 2017 Rating List of £38,000.

Date: Monday 8 February 2021

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