THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; workshop and premises; price per m^2 in dispute; rental evidence; comparable assessments; appeal allowed.

RE: 255 Gloucester Street, Atherton, Manchester M46 0JB

APPEAL NUMBER:	CHG100142493	
BETWEEN:	Transport Training Academy Limited	Appellant
	and	
	Mr R Roberts, Valuation Officer	Respondent
PANEL:	Ms J Routledge (Senior Member), Mrs C Parkes	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Thursday 14 January 2021	
APPEARANCES:	Mr S Visavadiya from Altus Group, representing the appellant	
	Ms K Mackinnon representing the Valuation Officer	

Summary of decision

1 Appeal allowed. The Rateable Value (RV) of the appeal property is altered from £21,750 to £20,000 with effect 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 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.

4 This is a 2017 rating list appeal. 255 Gloucester Street, Atherton, Manchester M46 0JB, (the 'appeal property') had been entered in the 2017 rating list as 'workshop and premises' at a RV of £21,750 with effect from 1 April 2017.

5 The challenge proposal was submitted by Altus Group on behalf of Transport Training Academy Limited and was received by the Valuation Officer on 15 November 2019. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised RV of £15,250 was proposed with effect from 1 April 2017.

6 The Valuation Officer issued a challenge case decision notice on 5 October 2020, which stated that based upon the evidence and information available, the rating list entry of £21,750 RV was considered to be reasonable and there would therefore be no amendment.

7 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 27 October 2020.

8 Mr Visavadiya 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), his declaration of truth included a statement that he was instructed on a contingency fee basis. He 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

10 The appeal property is a detached building of steel portal frame construction, built in 1980. It has a total area of 525.99 m^2 and comprises workshops, offices, training rooms, kitchen and WCs on the ground floor, and a mezzanine comprising workshops/stores and office. There is security fencing and gate with on-site car parking spaces. The present valuation of £21,750 RV is based upon an unadjusted rate of £41.50 per m^2.

11 The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.

Issue

12 The issue in dispute was the price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

13 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice, rental evidence summaries; and appellant's challenge submission.

14 Prior to the hearing, Mr Visavadiya submitted a revised valuation. While the challenge had been made proposing a reduction to £15,250 RV based upon an unadjusted rate £30 per m^2, Mr Visavadiya's revised valuation at £20,000 RV was based upon an unadjusted rate of £38.50 per m^2. He contended that this was supported by the subject rent and comparable properties.

15 On behalf of the Valuation Officer, Ms K Mackinnon referred to rental evidence which she contended supported the adopted unadjusted price of £41.50 per m^2. She therefore asked the panel to confirm the RV of £21,750 with effect from 1 April 2017.

Decision and reasons

16 In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) 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 an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

18 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

19 Both parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of evidence:

1. Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.
2. The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.
3. Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.
4. Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.
5. In light of all the evidence an opinion can then be formed of the differing types of evidence depending on the one hand the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.
6. In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.

20 In the subject appeal, a new lease had been agreed for a term of five years with effect from 4 January 2013 on a stepped rent basis:

Years 1-2	£17,000 per annum
Year 3	£18,000 per annum
Year 4	£19,000 per annum
Year 5	£20,000 per annum

21 It was agreed by the parties that the subject rent analysed at £34.99 per m^2. As outlined above, the starting point is the consideration of the actual rent, but the circumstances as to time, subject matter and conditions relating to the statutory requirements need to be taken into account when deciding the weight to attach to it. The subject rent was agreed two years before the AVD, and was a stepped rent which required further analysis. As such, the panel held that while it carried some weight, it should not be considered in isolation.

22 The panel therefore turned to the available rental evidence which comprised industrial properties in Wigan valued on the same valuation scheme (general industrials built between 1980-1989) with total significant areas ranging from 210.4 m^2 through to 1,459.5 m^2:

Address	Area m^2	Rent	Analysed rent per m^2	Adopted rate per m^2
Unit 2B Platt Fold Street, WN7 1JN	270	£5,000 1/3/2015	£32.99	£62.89
Unit 4 Richard Street, WN3 4JN	193.4	£8,326 1/9/2014	£38.65	£54.84
Unit 5 Richard Street, WN3 4JN	193.4	£8,324 1/12/2015	£38.64	£54.84
J Dunlop, Moat House Street, WN2 2EH	219.4	£13,000 1/4/2016	£48.29	£54.84
Unit 1B and 2A Platt Fold Street, WN7 1JH	283.75	£15,200 7/8/2015	£48.00	£54.84
199A Chaddock Lane, M28 1DW	306.9	£13,200 1/12/2014	£44.11	£48.85
255 Gloucester Street, M46 0JB (Appeal property)	525.99	£17,000 4/1/2013	£34.99	£41.50
Units 3 & 4 Platt Fold Street, WN7 1JH	666.9	£33,000 1/3/2016	£47.06	£37.54
Units 7 & 8 Platt Fold Street, WN7 1JH	706.5	£20,000 9/9/2014	£31.89	£38.50
63 Miry Lane, WN3 4BT	771	£42,500 5/12/2016	£41.44	£38.50
Unit 4 Enfield Industrial Estate, WN5 8DB	1,148.8	£46,813 1/5/2016	£56.56	£37.54
Unit D Adj S & W Garages Commercials Ltd, Printshop Lane, M46 9BJ	1,459.5	£63,000 1/4/2013	£36.89	£38.50

23 Mr Visavadiya submitted that most weight should be attached to the rental evidence in respect of Units 7 & 8 Platt Fold Street, as it was the closest transaction to the AVD, and the most similar in size to the appeal property. He attached little weight to the rental transaction of Units 3 & 4 Platt Fold Street, as this was an open ended agreement with a rent free period of eleven months, which had not been reflected in the Valuation Officer's analysis. He argued that less weight should be attached to 63 Miry Lane, as this appeared to be a connected party transaction. Overall, he found that the majority of the rental evidence demonstrated that the values adopted were excessive when compared to the analysed rents.

24 Ms Mackinnon contended that there were a number of rents which supported the existing assessment on the subject property: Unit 1B & 2A Platt Fold Street, effective from 7 August 2015 which analysed at £48 per m^2 and Units 3-4 Platt Fold Street effective from 1 March 2016 which analysed at £47.06 per m^2; although in response to Mr Visavadiya highlighting the eleven month's rent free and open ended agreement, Ms Mackinnon accepted that less weight should be attached to that rent.

25 In addition, Ms Mackinnon submitted that £41.50 per m^2 was not excessive when compared with values on industrial properties located on estates in Wigan. For example, properties at Moss Industrial Estate constructed between 1980-1999 of a similar size to the subject property are valued at £63.50 per m^2; James Close constructed 1980-1981 are valued at £51.50 per m^2; South Lancs Industrial Estate constructed 1980-1999 are valued at £50 per m^2; and Haslemere Industrial Estate constructed 1979-1980 are valued at £45 per m^2.

26 Mr Visavadiya questioned Ms Mackinnon's reference to the values adopted for other industrial properties in Wigan, as there was no evidence presented to support those values. The panel decided not to attach any weight to that evidence, and preferred to attach most weight to properties within the same valuation scheme.

27 The panel noted that the Valuation Officer had described Units 7 & 8 Platt Fold Street as a larger property than the subject property in the challenge decision. However, in response to a question, Ms Mackinnon agreed that Units 7 & 8 Platt Fold Street and Units 3 & 4 were similar in size to the appeal property. The panel considered it was reasonable to attach most weight to those properties which were the closest in size to the appeal property.

28 With reference to the schedule of rental evidence it was apparent to the panel that the adopted prices reflected an element of quantum. The first six properties ranged between 270 m^2 and 306.9 m^2, with adopted unadjusted rates ranging from £62.89 per m^2 to £48.85 per m^2.

29 The appeal property at 525.99 m^2 then followed at £41.50 per m^2. There were then two properties similar in size at 666.9 m^2 and 706.5 m^2 valued at £37.54 per m^2 and £38.50 per m^2. The remaining three largest properties were also valued at £38.50 per m^2.

30 With reference to the properties most comparable with the appeal property in terms of size, Units 3 & 4 Platt Fold Street and Units 7 & 8 Platt Fold Street, the panel was satisfied that Mr Visavadiya had demonstrated that the adopted value for the appeal property appeared excessive at £41.50 per m^2. The panel considered that it was reasonable for the appeal property to be valued at the same unadjusted rate of £38.50 per m^2.

31 The panel found further support for an unadjusted rate of £38.50 per m^2 with reference to the subject rental analysis of £34.99 per m^2. Mr Visavadiya had submitted that this reflected rental growth at 10% for the two years between the rental transaction and the AVD, which the panel found to be reasonable.

32 A revised valuation of £20,000 RV was determined by the panel, based upon Mr Visavadiya's proposed unadjusted rate of £38.50 per m^2. The appeal is therefore allowed, and the appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

33 Under the provisions of paragraphs (4) and (9) of Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Tribunal orders the Valuation Officer to alter the List within two weeks of the date of this order to show a revised Rateable Value of £20,000 with effect from 1 April 2017.

Date: 10 February 2021

Appeal Number: CHG100142493