THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeals –quantum – not applied in 2010 Rating List but had appeared when first entered into 2017 Rating List Previous Valuation Tribunal decision on neighbouring property – appeals dismissed

Re: Brymor House and Ocean House, Parklands Business Park, Waterlooville, PO7 6XP and Euclid House, Parkland Business Park, Waterlooville, PO7 6XP

APPEAL NUMBER: CHG100143795 and CHG100143817

BETWEEN:	Brymor Contractors Ltd and Euclid Ltd	Appellants
	and	
	The Valuation Officer	Respondent
PANEL;	Mr R White	
	Mr D Greensmith	
CLERK:	Mr A Jolly	
REMOTE HEARING	Tuesday 9 March 2021	
APPEARANCE:	Mr O Scorer of the Altus Group representing the occupier Brymor Contractors Ltd and Euclid Ltd (appellants)	
	Mr J Reene representing the Valuation Officer (respondent)	

Summary of decision

1. Appeals dismissed.

Introduction

2. This appeal has been brought in respect of the following: Appeals received on 18 December 2020 against the Valuation Officer's Challenge Decision Notices dated 4 September 2020.

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 Scorer 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 Scorer's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

7. Mr Scorer 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.

10. It was agreed between the parties that as the appeal hereditaments were located on the same Business Park, the grounds of appeal were the same and the evidence was the same for the two appeals that the appeals could be heard together.

Issues

11. The issue before the panel concerned whether the price per m² should be reduced due to the effects of quantum on larger hereditaments within the Business Park.

12. Brymor House and Ocean House were two separate offices but were contiguous and occupied as one and therefore for Rating purposes was one hereditament.

13. The two appeal hereditaments were offices located on a Business Park in a semi-rural location south of Denmead. Both parties have agreed areas and the only issue in dispute was the price per m² to be adopted.

Evidence and submissions

14. Mr Scorer informed the panel when the appeal hereditaments were first entered into the 2017 Rating List there had been a reduction in the price per m² for quantum when compared with the smaller units. He stated that Brymor House and Ocean House, a unit of 1445.07 m² had been valued at £90 per m² and Euclid House, a unit of 926.40 m² had been valued at £95 per m² whilst 1st Floor Ralls House, on the same Business Park had been valued at £105 per m². Following an appeal on 1st Floor Ralls House the price per m² for that unit was reduced to £71.01 per m² unadjusted by a Valuation Tribunal for England decision.

Following that decision checks were submitted in relation to the appeal hereditaments and the Valuation Officer reduced the price per m² for the two properties to £70 per m². The new adopted price per m² did not take account of the effects of quantum for the appeal hereditaments when compared with the smaller Ralls House.

15. In support of his contention that the rate per m² should be reduced for the appeal hereditaments Mr Scorer referred to the lease for Technology House, Parklands Business Park which at 412.74 m² was larger than 1st Floor Ralls House but smaller than the appeal hereditaments. The rent for Technology House analysed to £64.28 per m² which he considered illustrated that the larger the take the smaller the price per m².

16. Having regards to the differences in sizes he requested that Brymor House and Ocean House be valued at £56 per m² giving an RV of £73,500 and Euclid House be valued at £61 per m² giving an RV of £56,500.

17. In questions Mr Scorer stated that in the decision relating to 1st Floor, Ralls House the panel disregarded the rental evidence of Technology House as it was considerably larger than 1st Floor, Ralls House. He considered this supported his contention that quantum should be applied as the appeal hereditaments were considerably larger than both Technology House and 1st Floor,Ralls House.

18. He also confirmed that he was aware that the entry for Technology House had been removed from the Rating List as the property was being converted to a domestic property. He stated that there was a lack of rental evidence for hereditaments of similar size to the appeal hereditaments. He explained that the two appeal hereditaments were held freehold and therefore he had been unable to value from rents and had used the differential previously used to show the effects of quantum. However, he did accept that the percentage reduction used in his valuations did not equal the same percentage reduction when the properties were first entered into the Rating List.

19. Mr Reene stated that following the Valuation Tribunal decision on 1st Ralls House the price per m² for the whole estate was reconsidered but changes only occurred when a check against an RV was submitted. He considered that following the decision it was considered that quantum should not be reflected in the scheme for the larger units. Checks were received for the appeal hereditaments and the RV for Brymor House and Ocean House was reduced from £118,000 to £92,000 and Euclid House was reduced from RV £82,000 to £64,500 both based on a price of £70 per m². He considered these values to be reasonable.

20. Mr Reene referred the panel to the Land Tribunal decision of *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 and its six propositions. As there was no rental details for the appeal hereditaments he looked at the rents relating to 1st Ralls House and Technology House. In the VTE decision it had stated that the best evidence was that of similar sized properties but 1st Ralls House was considerably smaller than the appeal properties and therefore was not of assistance. He then considered Technology House and referred again to the VTE decision on Ralls House stating that the panel in that decision did not consider the rent to be of assistance as it was a renewal lease and a larger property. Also he did not consider the rent on Technology House to be of use as the property had been removed from the Rating List and the property undergoing conversion to domestic premises.

21. Mr Reene stated that no allowances had been given for quantum in the 2010 Rating List and that he considered that no evidence had been provided by the appellant's representative that

quantum should apply in the 2017 Rating List. He stated that the appellant's representative had cited that quantum had been identified when the scheme was first entered into the 2017 Rating List but the scheme was flawed in the light of the Valuation Tribunal Decision on 1st Floor Ralls House and the scheme had been reviewed and following that review no allowance for quantum had been provided. He stated that no evidence of units of similar size to the appeal hereditaments had been provided to illustrate the effects of quantum to the levels sought by the appellant's representative. He requested the panel to dismiss the appeals.

22. In answer to questions he confirmed that values within the Valuation Scheme was still £70 to £110 per m² and that some of the units that were smaller than 1st Floor Ralls House were still valued at a higher value but that they were only altering the price per m² when they receive a request for the RV to be checked. He also confirmed that at the relevant date Technology House was still an office. Mr Reene also confirmed, following a question from the Senior Member, that the Ground Floor of Ralls House had devalued at £68.61 per m² whereas Technology House had devalued to £64.28 but was a lease renewal and therefore had not taken account any tenant's improvements.

Decision and reasons

23. The panel had been informed of the decision relating to 1st Floor Ralls House. This property had originally been placed in the Valuation List at £105 per m² but following a challenge the price per m² was reduced to £90 per m², and was reduced further by a Valuation Tribunal to £70 per m². The panel understood that following that decision any requests for checks of the RVs to be carried on the same Business Park had resulted in reductions being given and that in the appeals before us the reduction was to £70 per m² from £90 per m² for Brymor House and Ocean House and to £70 per m² from £95 per m² for Euclid House.

24. In support of his contention that the price per m² should be reduced to £56 for Brymor House and Ocean House and £61 for Euclid House Mr Scorer had referred to the original entries in the 2017 Rating List where an allowance had been given and the lease renewal for Technology House. The panel noted that whilst an allowance had originally been given for the effects of quantum this was reviewed by the Valuation Officer following the decision on 1st Floor, Ralls House and the subsequent checks made against other assessments within Parklands Business Park. Following that review no allowance for quantum for hereditaments the size of the appeal properties had been granted. The panel therefore had to consider whether quantum should apply following the review.

25. The panel considered that whilst showing a reduction in the price per m² the lease for Technology House was a renewal and therefore did not reflect any tenant's improvements and therefore was not persuasive evidence on its own.

26. The panel had been provided with a copy of the decision in relation to 1st Floor, Ralls House where it had been noted that the rent had analysed for the Ground floor of Ralls House at £68.61 per m². This had reduced the difference in price per m² between the smaller Ralls House hereditaments and the larger Technology House, without taking account of the fact that Technology House lease was a renewal. When questioned Mr Scorer seemed to accept that the adjusted rent on Technology House, a lease renewal, would have been higher if it had been a new letting and comparable to the rent on Ralls House.

27. From the evidence presented the panel there were clearly size differences between the properties but on the limited rental evidence presented any effect on the price per m²

appeared minimal so a quantum allowance could not be justified The panel had not been persuaded by the appellant's representative that the price per m² should be reduced to £56 and £61 per m² for the effects of quantum. The panel therefore was satisfied that £70 per m² adopted by the Valuation Officer was not unreasonable and accordingly dismiss the appeals.

Date: Friday 26 March 2021

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