THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; compiled list appeal; workshop and premises; level of value; rental evidence; comparable properties; split site allowance; allowance for mixed age use; appeal allowed in part.

Re: 5-6 & 7-8 Griffin Industrial Estate, Penncricket Lane, Rowley Regis, West Midlands, B65 0SN

APPEAL NUMBER: CHG100165149

BETWEEN P McCann Ltd, Trading as Simark Engineering Appellant

and

Mr D Virk Respondent

(Valuation Officer)

PANEL: Mrs M Cole (Senior Member) and Mr M Bhatti

CLERK: Mrs S Morgan

REMOTE HEARING: Friday 10 June 2022

PARTIES PRESENT: Mr E Chambers for Altus Group – Appellant's representative

Mr F Nawaz – Valuation Officer's representative

Summary of decision

1. The appeal was allowed in part. The appeal property's current assessment was reduced to £74,500 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal. On behalf of the appellant, a challenge was submitted by Altus Group on 10 February 2020 against the 2017 Rateable Value of £85,000 effective from

1 April 2017 for 5-6 & 7-8 Griffin Industrial Estate, Penncricket Lane, Rowley Regis, West Midlands (the ‘appeal property’).

3. Following the challenge, the Valuation Officer served a decision notice for the appeal property as workshop and premises at £79,000 RV with effect from1 April 2017.

4. The challenge submission was made by the Altus Group on behalf of P McCann Ltd, Trading as Simark Engineering and was received by the Valuation Officer on 10 February 2020. It had been made on the grounds that the appellant’s representative believed that the current rate for the new and older part of the appeal property was excessive. He also contended that a 5% end allowance for mixed age use was justified. The appellant’s representative sought a revised RV of £69,000 with effect from 1 April 2017.

5. The Valuation Officer issued a challenge case decision notice in which it stated that based upon the evidence and information available, he believed that the existing rateable value of £79,000 RV based on £31.00/m^2 for the newer part and £20.96/m^2 for the older part with a 5% allowance for split site was reasonable.

6. Mr Chambers 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. Mr Chambers 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 cases.

7. 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.

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 the panel before coming to its decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issues

9. The appellant’s representative contended that the rate adopted for the appeal property was excessive. In his evidence, he originally sought a reduction to £28.50/m² for the newer 2006 part and £18.00/m^2 for the older part whilst the Valuation Officer (VO) contended that the existing £31.00/m² for the newer part and £20.96/m^2 for the older part, was reasonable.

10. The appellant’s representative also sought a 5% allowance for both a split site and mixed age allowance at the hearing. The VO had already conceded to the 5% split site, however, he did not believe that a 5% allowance for mixed age use was justified.

Evidence and submissions

11. The bundle comprised all of the documents exchanged between the parties as part of the challenge process. This included: the challenge document and supporting evidence; the Valuation Officer's initial response; comparable properties; rental evidence, location plans; photographs of the appeal property and comparable properties, assessment and rental evidence, tenure information, the definition of rateable value and case law.

12. The appeal property is a mixed age industrial unit situated on the Griffin Industrial Estate in Rowley Regis. It comprised two parts, one part was built in 2006 and the other part was built between 1955 and 1964. The hereditament was used as workshops and premises. There are three workshops, a messroom and toilet, three offices and three works offices. The total significant area in terms of main space (ITMS) was 2,620.65m^2. The newer part was valued at £31.00/m^2, and the older part was at £20.96/m^2. The appeal property was held on a freehold basis at the date of the proposal.

13. The appellant's representative had revised his valuation to £28.50/m^2 for the newer part and £18.00/m^2 for the older part together with a 5% allowance for both split site and mixed age. This gave a proposed assessment of £67,000 RV with effect from 1 April 2017. This was the figure he sought at the hearing.

14. Included in his evidence, the appellant's representative had also provided a valuation using £31.00/m^2 for the newer part, £18.00/m^2 for the older part with a 5% allowance for split site and 5% allowance for mixed age. Giving a revised valuation of £70,500 RV with effect from 1 April 2017.

15. The two valuation schemes applied were 313906 for the newer part and 387439 for the older part. Reference was also made to valuation scheme 286945 that was used by the respondent. The older part consisted of three bays which had a single skin asbestos roof with a 3m clear height. The appellant's representative referred to a number of settlements including Steelway Fensecure Ltd in Richmond Street, West Bromwich where the basic price was reduced from £20.00/m^2 to £14.00/m^2 and to Units 1-2 Howard Street, West Bromwich where the basis was reduced from £20.00/m^2 to £17.50/m^2, a drop between rating lists of 19.5%. Number 41-44 King Street, Cradley Heath was reduced from £22.00/m^2 to £18.00/m^2 having regard to the rent on that property. This was in line with comparable properties put forward as evidence.

16. The appellant's representative provided summary valuations from the 2010 and 2017 Rating Lists for a number of his comparable properties to show there were nil increase for many of those properties between the two lists.

17. The schedule of rental evidence for those within scheme 387439 ranged from £10.82/m^2 to £22.48/m^2 with the smaller units at the higher end of the range in values. The appellant's representative believed that the settlements and rental evidence supported his decision to apply £18.00/m^2 to the older part of the assessment.

18. In relation to valuation scheme 313906, the appellant's representative referred to properties in Hallbridge Way, Tiverdale, Spring Road, Smethwick and Alston Road, Oldbury. He agreed

with the VO's inference of quantum for Spring Road and Alston Road and as both properties had been agreed at £32.00/m^2, he believed that the quantum differential should be maintained. The appellant's representative sought £28.50/m^2, which was in line with the rental evidence on Rimstock plc Unit 1 Ridgeacre Road West Bromwich. The schedule of rental evidence for those within scheme 313906 ranged from £27.00/m^2 to £31.32/m^2.

19. Turning to the mixed age allowance, the appellant's representative provided a summary of comparable properties where a 5% end allowance was given for mixed age use. Each was valued to its constitute age, but adjustments were made as end allowances to the whole to reflect the mixed age and construction of the site. These properties were located in Wood Lane, Cradley Heath; Stafford Street, Wednesbury; Blakemore Road, West Bromwich; Stanton House, Birmingham and Arena Park, Dial Lane, West Bromwich.

20. In response to the respondent's rental evidence, the appellant's representative believed that the VO's rental evidence was not helpful. He provided his reasons to support his opinion which included looking at the locality, analysed rents, refurbishment of properties and reference to the schemes.

21. The respondent contended that there was no direct comparable evidence in the same locality. The comparable properties put forward by the appellant's representative in support of his lower figure for the old part were not from the same locality and there was a significant difference in size. He asked that little weight be placed on this evidence.

22. The respondent referred to his rental evidence for properties in Blackheath Trading Estate, Cakemore Road and Station Road Industrial Estate, Station Road in Rowley Regis. Other properties included were on CMT Industrial Estate, Junction 2 Industrial Estate and Park Lane Industrial Estate and Waverley Foundry in Stone Street. These were all located in Oldbury. There was one rent from 2005 with the rest being between 2014 and 2017. The rents analysed to between £28.39/m^2 and £47.61/m^2.

23. Within the existing assessment there was a 5% allowance for the split site, however, he contended that a 5% allowance for mixed age buildings was already reflected in the price allocated to each of the two parts of the hereditament.

24. In concluding, the respondent believed that the existing £31.00/m^2 for the newer part and £20.96/m^2 for the older part with a 5% allowance for the split site was reasonable. He sought a dismissal of the appeal.

Decision and reasons

25. The main issue in dispute concerned the level of value to be adopted for the appeal property. Also in dispute was a 5% for mixed age use. A 5% allowance for split site had already included in the assessment.

26. The term 'rateable value' is defined in paragraph 2(1), 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".

27. 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 AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

28. 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.

29. Both parties had referred to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

30. Having considered the evidence presented by the parties, the panel found that £31.00/m^2 for the newer part and £18.00/m^2 for the older part was not unreasonable. This was supported by the rental evidence and settlements provided by the appellant's representative, particularly for the older part. The panel noted the appellants representative's comments on the valuations between the lists, however, it was mindful that this would be different, and it would be dependent on the rental information available at the time each list was compiled. There was no suggestion that the relativities applied in the VO's valuation were incorrect and therefore they were carried forward into the revised valuation.

31. In relation to the mixed age allowance, the panel noted that the two parts that made up the assessment were valued on their own basis in relation to their age. To give an additional end allowance for mixed age would in effect be double counting.

32. In view of the foregoing, the panel decided that the main space rate should be £31.00/m^2 for the newer part and £18.00/m^2 for the older part as set out below with a 5% allowance for split unit.

Floor	Description	Area m^2	Price per m^2	Value
Ground	Warehouse	1,085.78	£31.00	£33659
Ground	Mess Room/Toilets	75.01	£34.10	£2558
First	Office	286.02	£37.20	£10640
Ground	Workshop	1123.33	£18.00	£20220
Ground	Office	113.50	£21.60	£2452
Ground	Office	54.47	£21.60	£1177
Ground	Workshop	314.76	£18.00	£5666
First	Works office	46.19	£13.62	£629
Ground	Works Office	40.30	£19.80	£798
First	Works office	9.41	£13.28	£125
	Plant and machinery			£511
				£78435
	End Allowance of 5% for divide/split unit			-£3922
				£74513
			Say	£74500

33. Consequently, the appeal was allowed in part, the RV was reduced to £74,500 with effect from 1 April 2017.

Order

34. 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 amend the entry in the rating list to show a revised assessment of £74,500 RV for the appeal property, with effect from 1 April 2017.

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

36. 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)) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: Friday 8 July 2022

Appeal number: CHG100165149

Right of Appeal:

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.