THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list; factory; rental evidence in relation to properties cited as comparable; VTE decision in respect of a comparable property from the same estate; appeal dismissed.

RE: 26 Commercial Road, Goldthorpe, Rotherham, South Yorkshire S63 9BL

APPEAL NUMBER: CHG100173196

BETWEEN:	Pressure Design and Engineering Ltd	Appellant
	and	
	Ms J Moore (Valuation Officer)	Respondent

BEFORE:	Ms C Caiquo (Chairman)
CLERK:	Mr D Mulgrew
HEARING:	Remote hearing No.1 on 23 August 2021
APPEARANCES:	Ms E Saunders (Altus Group) (Appellant's representative) Ms R Anderson (Respondent's representative)

Summary of decision

1. Appeal dismissed. I made no change to the rateable value of the appeal 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: 26 Commercial Road, Goldthorpe, Rotherham S63 9BL (the 'appeal property'). It was initially entered in the 2017 rating list as 'factory and premises', rateable value £60,500 effective from 1 April 2017.

6. A proposal challenging the rating list entry was made which sought a reduction to rateable value £58,000 from 1 April 2017. In response to the proposal, the Valuation Officer (VO) had made no alteration to the rating list.

7. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal to this Tribunal was made on the grounds that the valuation for the appeal property is not reasonable.

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 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

9. The issue in dispute concerned the price per square metre used in the rating assessment. The appellant sought a reduction of the VO's adopted price of £33/m² (adjusted to £31.35/m^2 for a 5% shared access allowance) to £30/m².

Evidence and submissions

10. The evidence from the parties included rental evidence in respect of properties cited as comparable, the existing and proposed valuations, comparable assessments (including summary valuations), photographs, correspondence between the parties and the rateable value definition.

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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).

11. Both parties were able to participate in the hearing, with no problems with technical equipment or software.

12. Both parties' representatives appeared in a dual role of advocate and expert witness.

13. Ms Saunders, when appearing as expert witness, had stated that she was on a contingency fee basis. She also declared that she understood and accepted that her duty was to the Tribunal in giving her evidence and she would comply with this as well as the requirements of her professional body regardless of whether or not the evidence supported her client's case.

14. Ms Anderson stated she was an expert in rating matters but informed me that she had never inspected the appeal property.

15. I have accepted their expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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).

16. It was therefore appropriate for me to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue before me.

17. Ms Saunders sought a reduction to rateable value £58,000 from 1 April 2017. She believed that there should be a reduction in the main space price from £33/m^2 to £30/m^2 to have regard to agreements and rental evidence on this estate and at Manvers Way, taking a stand back and look approach. However, Ms Anderson was of the view that the current rateable value was reasonable.

18. I wish to thank both parties for the clear way in which they have presented their cases.

Decision and reasons

19. The appeal property is a steel portal framed workshop with ancilliary offices built in 1991, with an eaves height of 6 metres. It has a total significant area of 1,826m^2. It is located in Goldthorpe with easy access to the A635. Ms Saunders said it is 8.8 miles east of the M1 Barnsley roundabout junction. Ms Anderson said it was 12 miles from the M1 and 9 miles from the A1.

20. There is no rent on the appeal property because the occupier is the freeholder. Therefore, both parties have had regard to rental evidence in respect of other industrial units that they have cited as comparable.

21. The appeal property had been placed in a valuation scheme (380535) with similar aged industrials built from 1990 onwards.

22. In Ms Saunders' opinion, the appeal property had not been consistently assessed with comparable properties.

23. A previous hearing had taken place to consider an appeal on 27 Commercial Road, which was in the same scheme as the appeal property; see *Union Chemicar UK Ltd v Ms J Moore (VO)* [VTE, CHG100090670, 30 November 2020]. The panel in that appeal decided to make no change to the rateable value upholding the VO's decision to assess that property at £35/m^2. Ms Saunders argued that three matters had come to light since then.

24. Firstly, Ms Saunders believed the VO had incorrectly analysed the key rent in respect of Factory 6 Fields End Business Park which had been given a lot of weight by the panel which decided the appeal for 27 Commercial Road. She had examined the assessment for that property and believed that it included an unwarranted layout allowance.

25. I noted Factory 6 Fields End Business Park had a significant area of 2,317m^2, which made it closest in size to the appeal property. The rent had been agreed at a nil increase in October 2014, which made it close to the antecedent valuation date of 1 April 2015. It was therefore good evidence.

26. The nub of the disagreement between the parties appeared to be over the rental analysis in respect of Factory 6 Fields End Business Park. Ms Saunders said that the rent devalued to £31.49/m^2, if calculating without the layout allowance. The rating valuation provided at page 24 of her expert report showed that it had an unadjusted rate of £33/m^2 and that there was a 5% adjustment. The photographs provided showed no apparent layout issues. When questioned on the layout, Ms Anderson said that she had looked at the plans and could not see any layout issue but that she would have to inspect that property to form a view.

27. However, I was mindful not to place too much reliance on the appellant's arguments because in discussing the 2010 rating list appeal on Factory 6 Fields End Business Park, both the VO and a representative for Altus Group had agreed that there should be a layout allowance of 5%, which contradicted Ms Saunders' argument. Additionally, Mrs Saunders had argued that the agreement on the 2010 rateable value was to reflect a reduced price per square metre, but Ms Anderson has informed me that the settled 2010 rateable value was still higher than the rent. I was therefore not persuaded to adopt a rental analysis for Factory 6 Fields End Business Park at £31.49/m^2.

28. The second matter raised by Ms Saunders was the basket of rental evidence. She argued it was incomplete at the last hearing, as the VO had provided additional rental evidence for this appeal.

29. Ms Saunders highlighted the following evidence from her rent schedule:

- Unit 14 and 15 Commercial Road – The rent devalues to £31.71/m^2; the VO has assessed at £35/m^2.
- Unit 7 and 8 Houndhill – The rent devalues to £22.14/m^2; the VO has assessed at £24/m^2.
- Midway Fields – The rent devalues to £20.36/m^2; the VO has assessed at £24/m^2.
- Unit 3B Fields End Business Park - The rent devalues to £24.31/m^2; the VO has assessed at £24/m^2.
- Power Park, Unit 3 Goldthorpe Industrial Estate - The rent devalues to £22.20/m^2; the VO has assessed at £24/m^2.

30. The last three of those rents were new and had not beem considered by the panel which had decided the rateable value in respect of 27 Commerical Road. Ms Saunders believed that if the panel had been aware of the new rents and her new rental analysis in respect of Factory 6 Fields End Business Park, it may have reached a different conclusion in respect of that property.

31. Ms Anderson had argued that the rents were mainly in respect of properties in a different scheme and/or different industrial estate. She believed that the most weight should be given to rents from Goldthorpe rather than from Wath upon Dearne.

32. I noted at paragraph 46 of *Union Chemicar UK Ltd v Ms J Moore (VO)* that:

> "… the panel was not persuaded by the appellant that the two locations were directly comparable. Consequently, the panel rejected Ms Saunders argument that the appeal property was comparable with properties from Wath upon Dearne which had been valued in accordance with VO scheme 372567."

33. Although I have noted that the comparable properties are within 5 miles of the appeal property, I am not convinced by the comparable evidence. Examining the new evidence not available to the panel in *Union Chemicar UK Ltd v Ms J Moore (VO)*, these had all been assessed at £24/m^2 based on their rental evidence. I was not persuaded that they were comparable with the appeal property as they were significantly larger. Overall, I did not find that the new evidence took us much further forward.

34. I also had regard to the VO's rent schedule and found that this was more relevant as it showed only units in Goldthorpe. There were quite a range of differently sized properties. The rents on the larger properties were at lower unit prices, whereas the smaller properties were at higher prices.

35. None of those at Houndhill Park, referred to by Ms Saunders, were similar in size to the appeal property, which I have taken into account.

36. Ms Saunders was of the opinion that the appeal property's rating assessment was excessive because the assessments of comparable units at Manvers Way support a lower level of value. She said that Manvers Way, Wath upon Dearne was located 5 miles away and was a similar distance to the A1 and

M1 roads. The properties at Houndhill Park at Manvers Way had been built in 2001 and had a 10 metre eaves height. Those assessments were reduced from £35/m^2 to £30/m^2 by settlement at the challenge stage. She believed the appeal property should be reduced in line with this because the price per square metre adopted was broadly the same for different size bands, but there remained a difference in the size band for which the appeal property fell into, namely 938m^2 to 2,750m^2.

37. Given that the units at Manvers Way were more modern and had higher eaves, I could understand why Ms Saunders might have formed an opinion that they might be as valuable as the appeal property. However, Ms Anderson has highlighted location as an important factor why this was not the case. Ms Anderson said that the settlements at Wath upon Dearne had been reached after consideration of the basket of rental evidence from that locality. She said that the appeal property's assessment had been derived from rents in Goldthorpe, which in her opinion suggested it was a better location.

38. I gave some weight to the panel's decision in *Union Chemicar UK Ltd v Ms J Moore (VO)* and noted that 27 Commercial Road was smaller than the appeal property as it had a total significant floor area of 1,066m^2. That property had been assessed at £35/m^2, and reducing the appeal property from £33/m^2 to £30/m^2 would make it out of line. Further, the panel had concluded in that decision at paragraph 48 that it was not persuaded that Wath upon Dearne was a comparable locality. In this respect I agree.

39. In conclusion, after considering all the evidence, I was not persuaded that £33/m^2 had been shown to be excessive and therefore dismissed the appeal.

Date: 21 September 2021

Appeal number: CHG100173196