THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Appeal allowed.

Re: Unit B1, Bar Lane Industrial Park, Bar Lane, Nottingham NG6 0JA

APPEAL NUMBER: CHG100402312

BETWEEN:	Bar Lane Community Sports Ltd.	Appellant
	And	
	Ms Jo Moore (Valuation Officer)	Respondent

PANEL:	Dr John Johnson	(Chair)
	Mr Simon Hooberman	
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 1:	14 June 2022	
PARTIES PRESENT:	Harry Pitt	Altus Group for the appellant
	Mr John Musgrove	for the Valuation Officer

Summary of decision

1. The appeal was allowed. The rateable value (RV) of the hereditament was reduced to £33,500 with effect from 1 April 2017.

Introduction

2. This 2017 compiled list appeal had been brought in respect of the property at Unit B1, Bar Lane Industrial Park, Bar Lane, Nottingham NG6 0JA occupied by Bar Lane Community Sports Ltd.

3. The rateable value was £53,500 on a base rate of £24.00/m^2 with a 2.5% reduction for no heating effective from 1 April 2017.

4. The appellant appealed against the VO decision as they sought a reduction of the RV to £33,500 on a base rate of £15/m^2.

5. The property was built between 1940 and 1954 and was an indoor cricket centre and premises in a small stand-alone industrial estate on Bar Lane within a predominantly residential area approximately three miles northeast of Nottingham City Centre. The premises are a standard industrial unit with no physical alterations or conversion and the internal equipment is all removable.

6. The Bar Lane industrial estate was formerly in one occupation as a dye works and the various buildings have, over the years, been subdivided into smaller units.

7. Mr Harry Pitt appeared on behalf of the appellant as 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.

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

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

Issue

10. The RV of the hereditament.

Evidence and submissions

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

12. The appellant stated that the property was let on a new 5 year fully open market letting from 27 April 2014 and the rent, when devalued, equated to £15/m^2 (£33,486.84 per year) and this therefore should form the basis of the RV.

13. The respondent Valuation Officer (VO) stated that the RV for the appeal property was based on the valuation scheme in which the property sits and the range of base rate values within the scheme was from £20/m^2 to £38.50/m^2. The base rate for the appeal property was £24/m^2 and he submitted details of other warehouses and premises with the same base rate as evidence that the valuation of the appeal property was in line with other valuations.

14. He also contended that the rental agreement could not be relied upon as there had been no evidence of proper marketing of the appeal property. Further, that the rental terms had been reduced as the area had been earmarked for development and that the agreement was between connected parties i.e. from one indoor cricket centre to another.

Decision and reasons

15. The panel referred to the Local Government Finance Act 1988. The term ‘rateable value’ being defined in paragraph 2(1), Schedule 6 to the Act:

    “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”.

16. 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).

17. The panel were not presented with the lease agreement of the appeal property but both parties had devalued the rent to the same value. The rent was a stepped rent as follows:

27/4/14 to 27/10/14	(6 months)	£23,886.84
27/11/14 to 26/11/15	(12 months)	£29,886.84
27/11/15 on	(3.5 years)	£35,886.84

    Therefore the total rent over the five years of the term was £167,434.20. This was divided by the number of years of the lease, 5, giving an average annual rental figure of £33,486.84. When this figure is divided by the Area In Terms of Main Space (AITMS) of 2,246.67m^2 the rent analyses at £14.89/m^2.

18. The panel found that this was excellent evidence that the RV was excessive.

19. The panel noted that the Lease agreement was effective from 27 April 2014, just less than a year from the AVD and is therefore not as reliable as a lease at the AVD. However, the panel still found that this was the most useful piece of rental evidence.

20. The panel found that the Bar Lane Industrial Estate was surrounded by residential property and therefore not capable of expansion. It was unlike other more modern industrial estates in the Nottingham area and it could be said that it had its own market.

21. The LO had included the property within the scheme 353088 with a base rate of £24/m^2 which was within the scheme values. He had also submitted a variety of properties in the same valuation scheme as the appeal property mostly with the same base rate. However,

the panel found that none of the properties were in the Bar Lane industrial estate but were distributed around Nottingham, some of which were over five miles from the appeal property.

22. The panel had noted the LO's comments in respect of marketing the property and the possibility of lower rents being agreed because of future redevelopment. However, the LO did not provide any evidence in respect of future development nor evidence of rents being lowered within the Bar Lane industrial estate as a result. The LO had also stated that the Lease agreement from 2014 may have been between connected parties but provided no evidence that that was the case for the panel. The panel did not attach any weight to these statements.

23. The panel were presented with evidence in respect of other units within the Bar Lane industrial estate. Whilst some were notably smaller than the appeal property, such units of a comparable size to the appeal property would have been valued at £15/m^2. Other units valued at a base rate of £15/m^2 were also presented and the panel found that, although they were older and smaller than the appeal property and therefore not necessarily directly comparable, they still gave an indication of the value of the appeal property.

24. In summary, the panel found that the appeal property rental evidence was the best evidence in respect of its valuation and the appeal is therefore allowed.

Order

25. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, S.I. No. 2269 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in respect of Unit B1, Bar Lane Industrial Park, Bar Lane, Nottingham NG6 0JA to an RV of £33,500 with effect from 1 April 2017.

26. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 6 July 2022

Appeal number: CHG100402312

Rights 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.

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