THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; workshop and premises; price per m^2 to be adopted for the various aged buildings within the assessment; comparable evidence; rental evidence; allowances to reflect various factors; appeal allowed.

RE: The Commercial Centre, Clowes Street, Oldham OL9 7LY

APPEAL NUMBER: CHG100429931

BETWEEN	Rap Spiderweb Limited	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent

PANEL: Mr D Gardner (Senior Member)
Mr M Bhatti

CLERK: Mrs H Beresford

REMOTE HEARING 2: 25 August 2022

APPEARANCES: Miss E Saunders of Altus Group on behalf of the Appellant
Mr C Skerratt on behalf of the Valuation Officer

Summary of decision

1. Appeal allowed. The appeal property's assessment was reduced to £27,250 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal in respect of The Commercial Centre, Clowes Street, Oldham OL9 7LY ("the appeal property"), entered in the 2017 rating list as 'Workshop and Premises' at £29,750 RV with effect from 1 April 2017.

3. The challenge proposal, submitted by Altus Group on behalf of Rap Spiderweb Limited, was received by the Valuation Officer on 21 October 2020. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was unreasonable. A revised assessment of £24,250 RV was originally proposed with effect from 1 April 2017. This had been amended to £26,750 RV since the challenge was made.

4. The Valuation Officer issued a challenge case decision notice on 22 November 2021 which stated that, based upon the evidence and information available, the existing rating list entry was not considered to be unreasonable. The rating list had been amended from £30,250 RV to £29,750 RV at the check stage prior to the challenge proposal. This reflected height allowances which had not been brought forward from the 2010 rating list. A further allowance was made at the challenge stage for the quality of the 1980's part of the building which further reduced the RV to £29,250 with effect from 1 April 2017.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was received by this Tribunal against the Valuation Officer's decision on 24 February 2022.

6. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC) the appellant's representative, Miss Saunders, when appearing as expert witness, stated that she was on a conditional fee arrangement. However, she also stated that she understood and accepted that her first duty was to the Valuation Tribunal for England (VTE) in giving her evidence, whether or not the evidence supported her client's case. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7. The panel has accepted this 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).

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

9. The appeal property is a single storey brick building with part asbestos corrugated roofing and has an area of 933m^2. It was extended in the 1970's and 1980's but to the same original style. Part of the industrial element of the property was built between 1955 and 1964 and part in 1988 and the offices were built in the 1970's. It is situated just off Manchester Road at J22 of M60. At the date of the proposal the property was held on a leasehold basis agreed on 1 September 2016 and is a connected party lease at £38,000 per year.

10. The panel conducted the hearing of this appeal remotely via Microsoft Teams conference call using audio/video-link. During the call the Senior Member was temporarily disconnected from the hearing as he had a poor connection and had to move to a different room. Later in the hearing Mr Bhatti also had technical difficulties which were resolved. The panel was satisfied that this interruption had no material impact upon either party's ability to present their case and the case had been halted for the duration of the period in which the technical evidence arose (thus no evidence was missed by the tribunal members). For the avoidance of any doubt, the panel was satisfied that those present at the hearing were able to fully participate in the proceedings.

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

Issue

12. The disputed issues related to the prices to be applied to the various parts of the building to reflect their age and the amount of end allowance to be adopted for the poor quality of the 1980's part of the building.

Evidence and submissions

13. The bundle of evidence comprised all of the documents exchanged between the parties as part of the challenge process; the appellant's challenge submission and full supporting information; the Valuation Officer's initial response; the exchanges of evidence between the parties; site and location plans; the Valuation Officer's challenge case decision notice, rental and assessment evidence; photographs and details of the appeal property and those cited as comparable by both parties and a copy of the proposed valuation submitted by Altus Group.

14. Miss Saunders explained that the property is currently valued as three survey units to reflect the building having been built at different times. She stated that the 1955 – 1964 part was valued at £30/m^2 this was extended in 1978 and this part of the building was valued at £31/m^2 and comprised office space, the 1980's part of the building had been built in the same style as the original part of the building and had been valued at £38/m^2 with a 5% reduction for construction which was agreed at the challenge stage. There is a further 5% reduction on all warehouse space to reflect eaves height.

15. In support of a reduction in the assessment of the appeal property, Miss Saunders argued that, based on rental evidence for comparable properties in the locality along with settlements and Valuation Tribunal decisions, the rate applied is excessive for all parts of the property. She argued for £28/m^2 for the 1960's part of the building, £29/m^2 for the 1970's part of the building and £35/m^2 for the 1980's part of the building with an allowance of 7.5% for the poor quality of the 1980's part.

16. Both parties had revised their valuations as after a recent inspection of the property it had been agreed that the workshop part of the property was heated. In light of this, Miss Saunders asked the panel to confirm her proposed assessment of £27,250 RV (increased from £26,750 RV) with effect from 1 April 2017.

17. On behalf of the Valuation Officer, Mr Skerratt had provided rental evidence for ten comparable properties which he submitted supported his valuation, he also contended that the allowance for poor quality of the 1980's part of the building at 5% was sufficient as the low eaves height had already been accounted for. He argued that the rent of £38,000 agreed on 1 September 2016 was the best evidence although he accepted that this was not an open market rent.

18. Mr Skerratt considered that, having regard to the assessments of other properties within the same scheme and the available rental information, the appeal property which had been increased from £29,250 to £29,500 RV to reflect heating in the warehouse, had been correctly assessed. He therefore sought dismissal of the appeal.

Decision and reasons

19. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number

of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

20. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841), the date of the hypothetical rent was 1 April 2015 the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

21. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined 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.

22. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 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.

23. Having regard to the details of their comparable properties, the parties had argued for the following values to be adopted in the appeal property's rating assessment.

Age of buildings	The representative's £/m^2	The Valuation Officer's £/m^2
Unadjusted rate for 1960s	28.00	30.00
Unadjusted rate for 1970s	29.00	31.00
Unadjusted rate for 1980s	35.00	38.00

24. The appellant had provided an analysis, together with photographs of buildings within the appeal property's assessment and corresponding buildings within her comparable properties, to give a comparison of the prices applied. Specific details of 9 comparable properties were referred to.

Address	Unadjusted Rate £/m^2	RV £	Total Area m^2
1960's			
Unit A, Westwood Industrial Estate	19.11	65,000	3218.02
Unit F, Westwood Industrial Estate	20.68	47,750	2296.50
Unit L, Westwood Industrial Estate	20.50	50,500	2527.51
1970's			
Units 3-5 Monarch House *	27.50	48,250	1421.44
Unit I 100, Shaw Road	31.00	24,000	822.20
1980's			
Unit E, Coulton Close	39.00	22,500	555.10
Pure Bathrooms, Ashton Road	42.00	22,500	482.80
Unit 3-4, Oldham West Business Centre	40.00	27,750	671.20
Unit 2, Coin Street, Royton *	32.00	48,000	1388.50

* Reduced by Valuation Tribunal

25. The panel considered this evidence and found it to be persuasive. In particular it noted that there had been a Valuation Tribunal decision on Unit 2, Coin Street, Royton, which had been reduced from £35/m^2 to £32/m^2 . The panel noted that this was larger than the appeal property

but found it supported £35/m^2 for the appeal property and was also supported by a 2015 rental agreement.

26. The panel also noted the table of settlement information for 1980's properties which showed properties which were almost half the size of the subject property settling at £39/m^2. Given an alteration for quantum, the panel found that this evidence also supported £35/m^2 for the subject property.

27. With respect to the 1970's evidence, in particular, the panel noted settlement evidence for Units 1-2 Osbourne Trading Estate, which had an area of 1000m^2 and had been agreed at £29/m^2, a reduction from £31/m^2, and Units 1-3, Albert Street, Oldham which had a ground floor footprint of 933m^2 and had also been reduced from £31/m^2 to £29/m^2. The panel found that this evidence supported £29/m^2 for the 1970's part of the building

28. For the part of the building built between 1955 and 1964 Miss Saunders referred to evidence submitted by the valuation officer in support of £28/m^2. This included MB Precision Ltd, Red Rose Works, which is smaller than the appeal property and analysed to £29/m^2 and Hayneswood Engineering (UK) Ltd, Acorn Street, which she stated analysed to £27.83/m^2.

29. The panel turned to the adjustment for quality for the 1980's part of the building. It found that Miss Saunders had provided compelling evidence to support her contention that the property warranted a reduction of 7.5%.

30. The panel noted that the parties had agreed that the workshop reduction for lack of heating should be removed.

31. The Valuation Officer had also submitted a comparable assessment schedule and referred to ten comparable properties, however, he contended that the best evidence in this appeal was the rent on the subject property. The panel were aware that this rent was a connected party rent and Mr Skerratt conceded that he was not aware of that at the challenge stage, however it had transpired that at the time the lease commenced on 1 September 2016, the Landlord was a director of the company and therefore the rent had been agreed between connected parties. Regardless of this, Mr Skerratt submitted that this was a good starting point and he also asked the panel to take into consideration the fact that in 2021, a new open market rent had been agreed at £43,000 per annum.

32. On balance, the panel preferred the rental and comparable assessment evidence submitted by Miss Saunders. The panel did not accept Mr Skerratt's argument that significant weight should be attached to the rent of the property as it was not an open market rent and therefore did not fit the statutory definition of rateable value. The rent of £43,000 agreed in 2021 was considered to be too remote from the AVD.

33. Taking into account all of the evidence of comparable properties provided, the panel decided that unadjusted base prices of £28/m^2 for the 1960's part of the building, £29/m^2 for the 1970's part of the building and £35/m^2 for the 1980's part of the building with an allowance of 7.5% for the poor quality of the 1980's part was fair and reasonable for the subject property. A revised valuation of £27,250 was determined as follows:

Floor	Description	Area m^2	£m^2/unit	Value
Ground	Workshop	323.8	£26.60	£8,613.08
Ground	Office	28.5	£31.92	£909.72
Ground	Workshop	126.5	£26.60	£3,364.90
Ground	Staff toilets	4.1	£26.60	£109.06
Ground	Workshop	294.3	£30.03	£8,837.83
Ground	Office	56.4	£36.04	£2,032.53
Ground	Office	92.38	£34.80	£3,214.82
Ground	Staff toilets	7.02	£29.00	£203.58
	Total	**933**		**£27,285.52**
	Revised RV £			**£27,250**

RV, say, £27,250 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 £27,250 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: 20 September 2022

Appeal Number: CHG100429931

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.