THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; shop and premises; price per m^2 to be adopted for the assessment; comparable evidence; rental evidence; appeal allowed.

RE: 36 High Street, Stock, Essex CM4 9BA

APPEAL NUMBER: CHG100564168

BETWEEN Plaistow Broadway Filling Stations Limited Appellant

and

Ms D Bunyan Respondent
(Valuation Officer)

PANEL: Mrs AE Fielder (Presiding Senior Member)
Mr FJ Rogers (Senior Member)

CLERK: Mrs H Beresford

REMOTE HEARING 2: 10 March 2023

APPEARANCES: Mr C Strong of Altus Group on behalf of the Appellant
Mr K Cheung on behalf of the Valuation Officer

Summary of decision

1. Appeal allowed. The appeal property's assessment was reduced to £12,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal in respect of 36 High Street, Stock, Essex CM4 9BA ("the appeal property"), entered in the 2017 rating list as 'Shop and Premises' at £14,250 RV with effect from 1 April 2017.

3. The challenge proposal, submitted by Altus Group on behalf of Plaistow Broadway Filling Stations Limited, was received by the Valuation Officer on 16 March 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 £10,000 RV was originally proposed with effect from 1 April 2017. At the hearing Mr Strong stated that this had been amended to £12,000 RV (based on a price of £80/m^2) since the challenge was made.

4. The Valuation Officer issued a challenge case decision notice on 20 April 2022 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 £14,250 RV to £15,250 RV with effect from 22 September 2020 at the check stage prior to the challenge proposal. This reflected that the property had air conditioning which the Valuation Officer had not been aware of.

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 12 August 2022.

6. In order to assist the Tribunal, the parties had agreed all basic facts and the analysis of the competing comparable evidence.

7. The appeal property is a stand-alone convenience store located on the corner of Swan Lane and Ingestone High Street within the village of Stock. Stock is within the London commuter belt in south Essex. The property is held freehold so there is no rent passing

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

9. 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).

10. 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.

11. This hearing was held remotely via Microsoft Teams.

12. This Tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

13. The disputed issue related to the main space price to be adopted. The Valuation Officer argued for a price of £100/m^2 resulting in an RV of £15,250 whilst the appellant's representative contended that £80/m^2 resulting in an RV of £12,000 was fair and reasonable.

Evidence and submissions

14. The bundle of evidence comprised the documents exchanged between the parties as part of the challenge process which included amongst other things: the appellant's challenge submission and full supporting information; the exchanges of evidence between the parties; site and location plans; the Valuation Officer's challenge case decision notice, 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.

Decision and reasons

15. 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).

16. 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.

17. 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.

18. 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.

19. The starting point for consideration was the actual rent passing on the appeal property. As this property was held freehold there was no direct rental evidence upon which to base a starting point.

20. In terms of comparable property evidence, the Valuation Officer referred to other stand-alone convenience stores in village locations which he contended were similar to Stock, within scheme 444712. Mr Cheung argued that: The Stores 7 Maldon Road, Great Totham, Maldon, Essex CM9 8NG; 141 -143 Ferry Road, Hullbridge, Hockley, Essex SS5 6ET; and 12 Ellen Way, Great Notley, Braintree, Essex CM77 7UU; which all had a base price of £100/m^2 supported the existing base price of £100/m^2 for the appeal property.

21. The panel considered this evidence but did not find it to be persuasive. In particular, it noted that these properties were situated over 15 miles from the appeal property and were in better locations. It noted that the stores had more accessible car parking and were in areas with a denser population. The panel was aware that the population of Stock was approximately 1,500 to 2,000. It was also aware that the appeal property had no exclusive car parking and there were double yellow lines on the road in front of the store making parking difficult.

22. With respect to the comparable properties referred to by Mr Strong, the panel noted that 99, Stanford Road, Chelmsford, CM2 6DF had an RV of £23,250 and a base price of £85/m^2. It was situated on the outskirts of Chelmsford city centre close to Chelmsford prison, so would benefit from some footfall from prison employees, and there was also a retail park close by. Similarly, 36 Hullbridge Road, South Woodham Ferriers, Chelmsford CM3 5NG had an RV of £15,000 and a base rate of £75/m^2. This property had exclusive car parking and was situated next to a train station. These comparable properties were much closer to the appeal property, and in better locations, but had base rates of £75/m^2 and £85/m^2 respectively. The panel found that this was compelling evidence which supported £80/m^2 for the appeal property.

23. Taking into account all of the evidence of comparable properties provided, the panel decided that an unadjusted base price of £80/m^2 was fair and reasonable for the appeal property. A revised valuation of £12,000 was determined as follows:

Floor	Description	Area m^2	£m^2/unit	Value
Ground	Chill Store	3.24	£80.00	£259
Ground	Staff WC	1.50	£0.00	£0
Ground	Store	24.23	£80.00	£1,938
Ground	Cold Store	2.47	£80.00	£198
Ground	Ground Floor Sales	113.40	£80.00	£9,072
	Air conditioning	99.13	£7.00	£694
	Total area	144.84	Sub-total	£12,161
	Total value			**£12,161**
	Revised RV £			**£12,000**

RV, say, £12,000 with effect from 1 April 2017

Order

24. 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 £12,000 RV for the appeal property, with effect from 1 April 2017.

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

26. 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: 27 March 2023

Appeal Number: CHG100564168

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.