VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal; workshop and premises; main space price disputed; the comparable assessments demonstrated that the subject hereditament was over assessed; the rateable value for the subject hereditament is reduced to £163,000 effective from 1 April 2017; appeal allowed.

APPEAL NUMBER: CHG100634628

RE: C & M Apostilides, Chequers Lane, Dagenham, RM9 6SH (the “subject hereditament”)

BETWEEN: CAMA Group Ltd — Appellant

and

Ms D Bunyan (Valuation Officer) — Respondent

PANEL: Mr FJ Stuart (Chairperson)
Mr SM Hooberman

CLERK: Mr P Hill IRRV Tech

HEARING: Remote hearing 2 on 10 February 2023

APPEARANCES: Mr M Clayton of Altus Group for the Appellant
Mr O Ogbesoyen of Valuation Office Agency for the Respondent

Summary of Decision

1. The appeal is allowed.

2. The panel is satisfied that –

   a. the rateable value shown in the 2017 non-domestic rating lists for the subject hereditament is not reasonable; and that

   b. the correct rateable value for the subject hereditament is £163,000 with effect from 1 April 2017.

Introduction

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

4. This appeal has been brought pursuant to Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 [SI 2009 No 2268]. The appeal challenges the respondent's decision that the appellant's proposal (also known as a "challenge" under the "check, challenge, appeal" framework) was not well-founded.

5. The appellant's proposal sought an alteration to the 2017 non-domestic rating list disputing the unadjusted rate of £80/m² and the rateable value of £186,000 effective from 1 April 2017.

6. Mr Clayton, a member of the Royal Institute of Chartered Surveyors, appeared on behalf of the appellant as advocate only. Mr Ogbesoyen, a member of the Royal Institute of Chartered Surveyors, appeared on behalf of the respondent as advocate and expert witness.

Relevant Law

The non-domestic rate

7. Part III of the Local Government Finance Act 1988 (the "Act") makes provision for the payment of a non-domestic rate in respect of non-domestic hereditaments in England. The rateable value of a non-domestic hereditament, which is used to determine the amount of the rate payable, is defined at paragraph 2(1) of Schedule 6 to the Act (which is commonly referred to as the "rating hypothesis").

8. For these proceedings, it is not necessary to set out all the provisions but suffice it to say that the rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2015 (the "antecedent valuation date").

The material day

9. Matters affecting the physical state or enjoyment of the hereditament and the mode and category of occupation are, amongst other things, taken to be as they were on the "material day". The Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 [SI 1992 No 556] provides for determining the material day. So far as is relevant for these proceedings, Regulation 3 of those Regulations provides –

> ***3 Material day for list alterations***
>
> *(1) For the purposes of sub-paragraph (6) of paragraph 2 of Schedule 6 to the 1988 Act, the material day shall be determined in accordance with paragraphs (2) to (7) below.*
>
> *(2) Where the determination is with a view to making an alteration to correct an inaccuracy in the list on the day on which it was compiled, the material day is the day on which the list was compiled.*

Issue

10. The issue in dispute concerned the price per square metre used in the rating assessment. The appellant sought a reduction of the Valuation Officer's adopted price of £80/m² to £70/m².

Decision and Reasons

11. The parties' representatives took the panel through their respective submissions and evidence orally at the hearing. The panel carefully considered the parties' respective submissions, together with the legislative basis set out above. The panel was grateful to the parties' representatives for their submissions.

12. The subject hereditament is a workshop and premises based in Dagenham measuring 2,267.93m^2 and was built approximately in 2005. The subject

hereditament is located on an industrial estate near the River Thames and the A13.

13. In this appeal no rental evidence is available for the subject hereditament as it is held on a freehold basis.

14. The respondent had referred to the appeal property being assessed at £80/m^2 in the 2005 and 2010 rating lists. However, the panel was mindful that the starting point for any 2017 rating list entry must be evidence which relates to the antecedent valuation date, 1 April 2015, rather than from previous rating lists, as this was sourced from an entirely different pool of rental information. The rents passing were considered afresh at a revaluation when the Valuation Officer sought to establish a tone of values. The whole point of a revaluation was to re-assess the demands of the hypothetical tenant, and movements in the market leading to changes in rents. The panel attached no weight to the 2005 and 2010 rating list entries.

15. From the list of comparables submitted the panel were invited to review four of them by the appellant's representative. These being Units 4, 5, 6 and 7 Thames Gateway Park, Choats Manor Way, Dagenham, Essex, RM9 6RJ. Each of these units has an unadjusted rate of £70/m^2. Units 4, 5, 6 and 7 were built after the subject hereditament. The comparable properties range from 1,347.38m^2 to 1,773.30m^2 in size, the subject hereditament is 2,643.83m^2. In the Valuation Officer's decision notice, the respondent tried to rely on a solitary rent in relation to Unit 7 Thames Gateway, from October 2016, stating that it devalued to £92/m^2 and that Units 4, 5, 6 and 7 were somehow underassessed. However, the assessments of those units had not been amended in the rating list and therefore it is reasonable to give some weight to the comparable assessments at £70/m^2.

16. The subject hereditament has been valued in scheme 321576, this scheme contains 70 properties most of which are below 1,000m^2. Units 4, 5, 6 and 7 Thames Gateway are in scheme 321306. The subject hereditament has been valued in line with units that were mainly built 2008 – 2018. Units 4, 5, 6 and 7 were provided by the appellant's representative as the alternative scheme of properties and were built 2001 – 2010. The properties in scheme 321576 benefit from 24 hour gated access, the subject hereditament does not benefit from 24 hour gated access.

17. The panel noted that the valuation officer relied on the scheme that the subject hereditament had been assigned to, this being scheme 321576. Reference was made to the First Bus Depot which was assessed at £70/m^2 but this was much larger at 3,225m^2.

18. The panel found that the appellant's representative's comparables were in close proximity and that the subject hereditament was of similar construction to phase 1 and 2 of Thames Gateway.

19. The scheme a hereditament is in may be of use to the Valuation Officer when setting values and can be a useful tool. However, this panel's decision is made on the evidence and the best evidence available to the panel is the comparable assessment evidence.

20. During the hearing, the parties referred to other properties with an unadjusted rate of £80m^2. The panel noted they were of newer construction, benefit from 24 hour gated access and it would be reasonable to expect those properties to have a higher unadjusted rate. The subject hereditament is near to the comparables provided by the appellant's representative, built at a similar time and of similar construction. The panel concludes that sufficient weight should be given to these comparables and that the subject hereditament is assessed too high and should have an unadjusted rate of £70m^2 and a rateable value of £163,000. The panel is therefore satisfied that the rateable value should be reduced from £186,000 to £163,000 effective from 1 April 2017.

Order

21. The Tribunal orders –

    a. the Respondent shall alter the entry in the 2017 non-domestic rating list to show the subject hereditament with a rateable value of £163,000 with effect from 1 April 2017; and

    b. the Respondent shall comply with this order within two weeks.

Refund of appeal fee

22. Further, as the appeal ground was made out, the appeal fee shall be refunded in full. This will take approximately six weeks to process.

Date: 7 March 2023

Appeal number: CHG100634628

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.