THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Office building; Comparable office evidence; Appeal dismissed.

RE: Countryside House, The Drive, Brentwood CM13 3AT

APPEAL NUMBER: CHG100731610

BETWEEN: Countryside Properties UK Ltd (represented by Altus Group) — Appellant

and

Jo Moore (Valuation Officer) — Respondent

PANEL: Mr K Sutch (Presiding Senior Member)
Mrs A E Fielder (Senior Member)

CLERK: Ms S Hodgson

ON: 15 August 2023

REMOTE HEARING

APPEARANCES: Mr M Clayton for the appellant
Mr K Bainbridge for the respondent

Summary of decision

1. Appeal dismissed. The existing valuation is not excessive and the entry in the rating list is confirmed at £615,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal. The RV of the appeal hereditament was £750,000 with effect from 1 April 2017. This was a compiled list appeal, so the material day was also 1 April 2017. The challenge stage was completed on 18 October 2022. The challenge sought a reduction in

RV to £475,000 by way of a reduction in the unadjusted base rate to £140 per square metre (psm).

3. The appeal hereditament was a detached, three-storey, purpose-built office building which was located near Brentwood in Essex. It was built in 1995, measured 3,454.60m^2 and was valued using an unadjusted base rate of £215 psm.

4. During the challenge stage the VO found that the RV was not reasonable and revised the RV to £615,000 based on an unadjusted base rate of £180psm. Mr Clayton amended his request and now sought an RV of £580,000 based on an unadjusted base rate of £170psm.

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

Issue

6. The issue for the panel to consider was the correct RV to be ascribed to the assessment.

Evidence and submissions

7. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge, VO's challenge case decision notice, and appellant's challenge submission.

8. Mr Clayton appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC) he confirmed that he was instructed under a contingency fee. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

9. 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).

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

Decision and reasons

11. Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

2(1) 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.

12. 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 AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No.2841).

13. The material day (the date by which physical factors have to be taken into account) was provided 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.

14. There were two leases on the subject property from 2011 and 2021. Both parties disregarded the subject rent due to the remoteness from the AVD. The panel agreed with this approach and gave the subject rent no weight.

15. The parties had discussed and agreed many issues prior to the hearing and the only outstanding concern was the relevance of the comparable property Canon House, previously known as OCE House.

16. Mr Clayton argued that Canon House was a similar size to the subject property but was more modern, having been built in the early 2000s. He stated that in previous rating lists it had been agreed at a higher rate than the appeal property and was £5 psm higher in the 2010 list. Therefore, he contended for the same difference in the 2017 list which had Canon House rated at £175 psm, therefore Mr Clayton sought a base rate of £170 psm for the appeal property.

17. No rental evidence was provided for Canon House and Mr Clayton stated that the building was owner occupied and therefore no rents were available.

18. Mr Bainbridge argued that Canon House was located in the city centre and had 130 carparking spaces that were separately assessed with an RV of £82,100. The subject property was located out of the city centre and had 165 carparking spaces which were included in the current RV of £615,000.

19. The panel noted from further questioning of the parties that Canon House had originally been in the list as one property, it was then split into multiple hereditaments, before being merged back into one unit of assessment. In the 2005 and 2010 list, Canon House was valued at £217.50 psm and £225 psm respectively, compared to the appeal property at £215 psm and £220 psm. In both of these lists, carparking was included. In the latest valuation of Canon House, which was effective from June 2018 the base rate was £175 psm, however the carparks at the site were assessed separately.

20. Mr Clayton argued that the issue of carparking was irrelevant as the material day for the appeal was 1 April 2017. The panel agreed that the material day was 1 April 2017, and this was when the physical factors of the appeal property had to be taken into account. However, the panel did not agree that Mr Clayton could base his argument for a reduction in RV on the base rate of Canon House from June 2018, but then argue the physical factors of Canon House at that same day were irrelevant.

21. The panel was aware that the values in the 2005 and 2010 list were not relevant to the appeal before it today as the AVD was different for both lists and different sets of evidence and different economic circumstances had to be considered for each rating list.

22. It was the panel's opinion that the carparking was relevant to the base rate that had been applied at the appeal property when compared to Canon House. The panel found that comparing the values from the 2017 rating list was not comparing like for like in this instance and, had the carparking element at Canon House been included in the unadjusted base rate, it was the panel's view that this would have resulted in a higher base rate.

23. Having considered the evidence presented by the parties, the panel found that the appellant had not discharged their legal and evidential burden of proof to demonstrate that the RV of the subject property was unreasonable. The panel therefore dismissed the appeal and the RV of £615,000 was confirmed with effect from 1 April 2017.

Date: 13 September 2023

Appeal number: CHG100731610

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.