THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; warehouse and premises; rental evidence; comparable assessments; appeal allowed in part.

RE: 8 Leeds Place, London N4 3RF

APPEAL NUMBER: CHG100732671

BETWEEN:	Mark Samuel Trading Ltd	Appellant
	and	
	Ms D Bunyan (Valuation Officer)	Respondent

PANEL: Mr FJ Stuart (Presiding Senior Member)
Mr A Hussain (Senior Member)

CLERK: Mrs H Beresford

REMOTE HEARING ON: 25 January 2024

APPEARANCES: Mr J Barnes of Commercial Property Advisors (Appellant's representative)
Mr G Singh (for the Valuation Officer)

Summary of decision

1. The appeal was allowed in part; the assessment was reduced to rateable value (RV) £23,500 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of 8 Leeds Place, London N4 3RF (the 'appeal property'), which was entered in the 2017 rating list as workshop and premises at RV £31,250, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Mr Barnes made an appeal to the Valuation Tribunal for England (VTE). The appeal was made because the Valuation Officer decided to alter the 2017 rating list to £30,500 following the appellant’s challenge. The appellant had sought a reduction to RV £21,000 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the Valuation Officer had not made sufficient alteration to the rating list in his challenge decision notice.

5. The appeal property has an area of 277.76m^2 and comprised a workshop and premises which had been constructed pre 1900. The appeal property is located on ground floor level, situated within a building of brick built construction arranged over two floors. Internally, the building comprised industrial accommodation arranged over ground floor level and office accommodation to the first floor.

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

7. The panel 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 to consider the ‘expert’ evidence and assess what weight, if any, to give it in the context of the matters before it.

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

Preliminary issue

10. Mr Barnes raised a preliminary issue. He stated that his original comparable evidence had been dismissed by the Valuation Officer because the properties cited needed to be reviewed. He had therefore submitted details of four other comparable properties which the Valuation Officer had dismissed as late evidence. This evidence had been referred to in the Valuation Officer’s decision. Mr Singh, representing the Valuation Officer stated that he had no objection to this evidence being referred to and consequently the panel agreed to admit the evidence.

Issues

11. The disputed issues related to the main space price and whether an end allowance of 10% for poor access should be adopted. The Valuation Officer argued for a price of £110/m^2 resulting in an RV of £31,500 whilst the appellant’s representative contended that £85/m^2 along with a further 10% end allowance for poor access, resulting in an RV of £21,000 was fair and reasonable.

Evidence and submissions

12. 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.

13. During the hearing it transpired that both the clerk and Mr Singh were not in receipt of photographs that Mr Barnes had emailed to the Tribunal and to the Valuation Officer. Mr Barnes was able to email the photographs to the clerk who in turn forwarded the photographs to the panel and Mr Singh for their consideration. Mr Singh did not object to this arrangement and was able to email his comments to the clerk after the hearing.

Decision and reasons

14. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD) of1 April 2015. This common date was used to ensure that every property was treated in a consistent way.

15. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "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 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;
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> 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. 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 comparable assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties can also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

17. Mr Barnes submitted that the appeal property was held on a leasehold basis with a previous letting which was agreed on 18 May 2013 and a new letting agreed on 18 May 2016 both at a rent of £17,600 per annum. A further rent had been agreed on 18 May 2021 at £35,000 per annum. Mr Barnes argued that this later rent should be disregarded as it was too remote from the AVD. Mr Singh argued that the fact that the rent had not increased since 2002 and had virtually doubled in 2021 suggested that this was not a true market rent. The panel noted that the rent on either side of the AVD was agreed by unconnected parties at £17,600 and it attached some weight to it.

18. Mr Barnes referred to four comparable properties at the challenge stage which were in the same scheme and which he contended supported £85/m^2 for the appeal property.

- Unit 1 Gnd Flr (LT), 87 Sunnyside Road, London, N19 3SL - comprising a workshop and premises with an area of 254.18m^2 with a base rate of £85/m^2
- 2A-3A, Stock Orchard Street, N7 9RW - comprising a workshop and premises with an area of 203.6m^2 with a base rate of £87.13/m^2
- R/o 218-224 Hornsey Road, London, N7 7LL comprising a workshop and premises it has an area of 291.19m^2 at a base rate of £87.13/m^2
- Exc Pt Grd Flr 1a Hercules Street, London N7 comprising a store and premises with an area of 308.9m^2 at a base rate of £87.13/m^2

19. The Valuation Officer had disregarded this evidence because he was of the opinion that the properties referred to may need to be reviewed. The panel was aware that it must consider the list entries as they stood and not as they might become following a review. The Valuation Officer had the opportunity to review the RVs of the four comparable properties prior to the hearing and had not done so. The panel held that the entries in the list were good evidence, and it attached some weight to them.

20. Mr Barnes had also referred to several properties in Leeds Place which were also in the same scheme. These were1 and 2, Leeds Place, a dance studio of 140m2 with a base rate of £85/m^2; 3 Leeds Place of 159m^2 with a base rate of £85/m^2; Unit 9 Leeds Place of 122m^2 with a base rate of £85/m^2; and 1st Floor, Unit 10, Leeds Place, of 140m^2 which is on a recording studio scheme, but has a base rate of £85/m^2. For completeness the Valuation Officer had pointed out that Unit 7, Leeds Place, of 77.37m^2 has a base rate of £110/m^2 but the panel noted that this property was significantly smaller.

21. Of the Valuation Officer's rental evidence, the panel noted that both parties had referred to 21-22 Turle Road as the best piece of evidence. This property was situated in the locality of the appeal property and had an adjusted rent of £35,685. This property was similar in size at 326.02m^2 and an RV of £33,250 based £110/m^2. Having regard to the photographs provided by Mr Barnes and taking into consideration the comment made by Mr Singh that 'value is based on an assessment being in a reasonable state of repair', the panel noted that this building was somewhat superior, and it did not appear to have the same disadvantages as the appeal property. The panel concluded that a hypothetical tenant coming fresh to the scene would be prepared to pay a higher rent for this property than for the appeal property.

22. Mr Barnes argued for a 10% end allowance for poor access and whilst the panel accepted that there was poor access to the appeal property, it also accepted Mr Singh's contentions that this was allowed for in the rent and that none of the other properties in Leeds Place had

such an allowance. The panel found that no end allowance should be adopted as to make such an allowance would effectively double count it.

23. Having regard to the evidence and arguments presented to it, the panel found the appellant's representative's evidence to be the more persuasive.

24. Therefore, the panel determined that the correct RV for the appeal property with a revised base rate of £85/m² is £23,500. This is calculated as follows:

FLOOR	DESCRIPTION	AREA (m²)	PRICE (£/m²)	TOTAL VALUE (£)
Ground	Warehouse	277.76	£85	£23,610
			Total Value	£23,610
			Say RV	£23,500

25. 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).

Order

26. 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 £23,500 RV for the appeal property, with effect from 1 April 2017.

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

28. 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: 19 February 2024

Appeal numbers: CHG100732671

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.