THE VALUATION TRIBUNAL FOR ENGLAND

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

RE: Unit 26, Henfield Business Park, Shoreham Road, Henfield BN5 9SL

APPEAL NUMBER:	CHG100778413	
BETWEEN	Boretech Engineering Ltd	Appellant
	and	
	Ms D Bunyan (Valuation Officer)	Respondent
PANEL:	Mrs S Patel (Presiding Senior Member) Mr K Everett (Senior Member)	
CLERK:	Mrs H Beresford	
REMOTE HEARING 2:	23 August 2023	
APPEARANCES:	Mr B Buchkov, of Altus Group on behalf of the Appellant Mr R Das, on behalf of the Valuation Officer	

Summary of decision

1. Appeal allowed. The appeal property's assessment was reduced to £12,500 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal in respect of Unit 26, Henfield Business Park, Shoreham Road, Henfield BN5 9SL ("the appeal property"), entered in the 2017 rating list as 'Warehouse and Premises' at £16,000 RV with effect from 1 April 2017.

3. The challenge proposal, submitted by Altus Group on behalf of Boretech Engineering Ltd, was received by the Valuation Officer on 22 February 2022. 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 £12,000 RV was originally proposed with effect from 1 April 2017. At the hearing Mr Buchkov stated that this had been amended to £12,500 RV (based on a price of £75/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 and the proposal was not well founded.

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 16 March 2023.

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 one of two industrial units that were added to the existing buildings on Henfield Business Park in 2014. It is a steel portal frame building on a concrete slab of brick and concrete construction. The walls are clad at first floor level with profile steel, the roof is profiled steel with translucent roof lights. There is no heating or air conditioning. 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 Buchkov, 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 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 £92.63/m^2 resulting in an RV of £16,000 whilst the appellant's representative contended that £75/m^2 resulting in an RV of £12,500 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 appellant's representative referred to Unit A, Henfield Business Park, Shoreham Road, Henfield, West Sussex, BN5 9SL. The tone on this property had been reduced from £92.50 to £70.00/m^2 at the challenge stage. Unit A had a total significant area (TSA) of 344.52m^2 and was valued in the 2010 List at £77.00/m^2 and following a challenge on this property had now been agreed at a tone of £70.00/m^2. The panel noted that this property was larger than the appeal property and as such attached little weight to it.

21. The panel noted that Units 1 & 2 Henfield Business Park, Shoreham Road, Henfield, West Sussex, BN5 9SL had also been referred to as a comparator, however, this property had a connected party rent and the panel could not attach any weight to it.

22. Mr Buchkov also argued that Unit 9, Henfield Business Park, Shoreham Road, Henfield, West Sussex, BN5 9SL which is smaller than the subject property, had been subject to an open market letting by Crickmay Chartered Surveyors effective from 15 October 2014 with a headline rent of £7,000 per annum, close to the AVD. This property had a TSA of 85.54m^2 which Mr Buchkov argued analysed to £81.83/m^2 compared to the current tone of £102.00/m^2 thus supporting a base price of £75/m^2 for the appeal property which is larger at 247.72m^2. The panel found this to be good evidence and it attached significant weight to it. It

found that this evidence supported a tone of £75.00/m^2 for the appeal property which was considerably larger.

23. The panel considered this evidence and found it to be persuasive.

24. With respect to Mr Das's argument that the sale price of the appeal property should be taken into consideration, (the appeal property had recently sold for £600,000 in March 2023) the panel found that this evidence was not useful in establishing a rateable value at the AVD of 1 April 2015.

25. Taking into account all of the evidence of comparable properties provided, the panel decided that an unadjusted base price of £75/m^2 was fair and reasonable for the appeal property. A revised valuation of £12,500 was determined.

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 £12,500 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: 13 September 2023

Appeal Number: CHG100778413

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.