THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Workshop and Premises; Main space price; Appeal dismissed.

RE: Unit 11 Integra, Bircholt Road, Maidstone, Kent ME15 9GO

APPEAL NUMBER: CHG100793839

BETWEEN: Maidstone Car Repair Appellant

and

Ms D Bunyan Respondent

(Valuation Officer)

PANEL: Mr C Derrick (Presiding Senior Member)

Dr H Freeman (Senior Member)

CLERK: Mrs S Morgan

REMOTE HEARING: Tuesday 21 November 2023

PARTIES PRESENT: Mr I Bright – Appellant's representative (Altus group)

Mr R Das – Valuation Officer's representative

Summary of decision

1. The appeal was dismissed. The panel confirmed the appeal property had been correctly valued as a workshop and premises at £15,700 Rateable Value (RV) with effect from 30 September 2018.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO). After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 19 April 2023 and his representatives then appealed the VO's decision to the Tribunal on 15 June 2023 on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. Mr Bright appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Bright's declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.

4. 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 Procedure regulations 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).

5. The hearing was held remotely via Microsoft Teams.

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

Issue

7. The issue in dispute before the panel was the correct level of value to be applied to the appeal property. Mr Bright had sought a reduced entry of £12,750 RV based on an unadjusted value of £69.50/m². However, at the hearing he stated that he had reconsidered his position and he was now seeking £75/m^2 and a revised RV of £13,750. Mr Das defended the VO's existing assessment of £15,700 based on an unadjusted value of £85.00/m² with effect from 30 September 2018.

Evidence and submissions

8. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence for the appeal property and the parties' comparable properties, photographs of appeal property, site and location plans and their skeleton arguments.

9. The appeal property comprised of a purpose built 2010 end terraced industrial building. The assessment consisted of an open workshop, area under supported floor and a mezzanine ancillary office.

Decision and reasons

10. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

11. The property was assessed on valuation scheme 299652 with a tone of £85/m^2. In this scheme the values ranged from £60/m^2 to £93/m^2. The values were applicable to units in the Equilibrium and Integra developments Bircholt Road, Parkwood, Maidstone, Kent.

12. The rent passing on the subject was from an open market lease featuring a 6-year term effective from 17 June 2016. The current yearly rental figure was stepped starting at £10,000 per annum. After two years the rent increased to £10,464 per annum. The following years see year on year increases to £10,900 per annum, £11,336 per annum and the sixth year at £12,208 per annum. The net effective rent was calculated to be £10,720.45 and, against the shell ITMS of 164.36m^2 analysed to £65.23/m^2, suggesting that the tone of £85/m^2 was significantly too high. The respondent stated that although this was past the antecedent valuation date (AVD), it should still be considered strong evidence as the market was growing at the time and the analysed figure would only reflect a UAR higher than that at AVD.

13. The appellant's representative went through his comparable properties at Units 3, 8, 11 (appeal property) and 26 Integra where the analysed rents ranged from £41.43/m^2 for the largest property (Unit 8) to £88.49/m^2 for the smallest one (Unit 26). The unadjusted rate applied to these properties was £85/m^2 with the exception of the smallest property where £93/m^2 was applied. His analysis was not included in the evidence bundle although it was said to have been produced at the challenge stage. However, having previously applied full weight to the appeal property he had now reviewed the rest of the rental evidence and believed that an unadjusted rate of £75/m^2 was more appropriate.

14. The respondent believed that the main space price of £85/m^2 was in line with similar sized properties in the locality that were within the same valuation scheme. There were around 40 to 50 units on this estate and since the current valuation list had come into existence there had been no reductions which suggested to him that the tone had been accepted.

15. The respondent referred to his comparable evidence which included Units 3, H3, H5 and 4 and 5 Integra, where the analysed rents ranged from £79.34/m^2 to £112.66/m^2. This evidence was from Forms of Return and in his opinion the basket of evidence would support the current rate of £85/m^2 as being reasonable. The respondent also referred to two settled cases of properties within the same scheme which had been reached with other ratepayers' representatives. An appeal on 19 Integra was withdrawn in June 2021

and with Units 7 and 14 Integra the challenge was disagreed in August 2022 and the agent did not submit an appeal. These would suggest that the tone was reasonable.

16. The panel noted the analysed rents produced by the parties for Units 3 and 8 Integra were some distance apart. These were both new leases. Unit 8 was from March 2017 and Unit 3 from 2013. It was suggested that the lease for Unit 3 was between connected parties which would support the lower rental analysis produced by the appellant's representative of £41.43/m^2. The Form of Return for Unit 8 stated that there had been additions (£110,000). The respondent had devalued this to £86.15/m^2 and the appellant's representative to £69.48/m^2. The panel weighted these rents accordingly.

17. The rent on Units 4 and 5 Integra was 27 months post AVD and the property was twice the size of the appeal property. The panel placed little weight on this rent. There was an open market rent, stepped, 18 months post AVD for Unit 26 Integra which the panel weighted accordingly. The 2014 and 2015 rents on H3 and H5 Integra analysed to £92.35/m^2 and £79.34/m^2, respectively. Although larger properties, they produced analysed rents which supported £85/m^2. H3 Integra was the only rent higher than the unadjusted rate and showed a growing trend in rents for this locality. The panel considered that the rental evidence for H3 and H5 Integra was good evidence and both parties agreed on the analysed rent for these two properties. With regard to the rent passing on the appeal property itself, this rent was from 2016, 14 months post AVD. The respondent had disagreed with the appellant's representative's comments that there should not be an element of fit out. The panel found the rent on the appeal property to be of limited assistance.

18. Having considered all the evidence presented at the hearing, the panel determined that the assessment should not be reduced. The price per m^2 that had been applied to others in the same locality, on the same valuation scheme supported the level of value adopted of £85/m^2 for the appeal property. The panel also noted that there had been no reductions on this estate in the last five years. There was good tonal evidence from Unit H3 and Unit H5 supporting £85/m^2. There was one settlement where the tone was accepted and one where the tone was defended by the VO and not appealed by the agent. With this in mind, the panel was not persuaded to reduce the level of value for the appeal property.

19. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the appeal before it, the panel concluded that he had failed to produce sufficient evidence to justify his claim for a reduction in the level of value. Consequently, the panel dismissed the appeal.

Date: Monday 18 December 2023

Appeal number: CHG100793839

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.