THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; workshop and premises; rate per m^2 to be adopted in the assessment; the panel found the appellant's representative had demonstrated that the assessment of the appeal property was unreasonable; appeal allowed.

RE: Bay 3 Unit B Radnor Park Industrial Estate, Congleton, CW12 4XJ

APPEAL NUMBER: CHG100818735

BETWEEN	Cambi UK Ltd	Appellant
	and	
	Ms A Hitchings (valuation officer)	Respondent

PANEL: Mr D Winters (Presiding Senior Member)
Mr M H Smith (Senior Member)

CLERK: Mrs A Keohane

REMOTE HEARING 2: Thursday 1 February 2024

APPEARANCES: Mr J Le Brocq of Altus Group on behalf of the appellant, as advocate and expert witness
Ms A Faulkner, on behalf of the valuation officer, as advocate and expert witness

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Summary of decision

1 Appeal allowed. The panel considered the appellant's case for a reduced rate/m^2 was made out and the assessment was therefore revised to £27,750 rateable value (RV), based on a revised unadjusted rate of £38/m^2.

Introduction

2 This is a 2017 rating list appeal. Bay 3 Unit B Radnor Park Industrial Estate, Congleton, CW12 4XJ, (the 'appeal property') had been entered in the 2017 rating list as 'Workshop and Premises' at £39,500 RV with effect from 20 April 2019.

3 The challenge proposal was submitted to the valuation officer (VO) by Altus Group on behalf of the appellant on 17 June 2022. The VO issued a challenge case decision notice on 12 June 2023, which declined to amend the assessment in accordance with the proposal. An appeal was received by this Tribunal against the VO decision notice on 27 July 2023 on the grounds that the valuation for the hereditament was not reasonable.

4 As Mr Le Brocq appeared on behalf of the appellant as both advocate and expert witness, he was asked to clarify whether there was a success related fee involved and if so whether its existence was compatible with his obligations to the Tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

5 Mr Le Brocq declared he was instructed on a contingency fee basis. However, he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body, regardless of whether the evidence supported the client's case.

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

7 The appeal property is in a row of three similar industrial units located on Radnor Park Industrial Estate in Congleton, Cheshire. The original steel portal frame of the building dates back to the 1970s. However, the appeal property underwent work in 2019 involving replacement of the roof and outer cladding to modern standards.

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

Issues

9 The floor area had been agreed between the parties at the Check stage at 752.76m^2. The matter in dispute was the rate on which the appeal property's assessment should be based. Mr Le Brocq argued for a revised assessment of £27,750 RV based on £38/m^2 and Ms Faulkner for the current assessment of £39,500 RV based on a rate of £54/m^2.

Evidence and submissions

10 The day prior to the hearing Mr Le Brocq became aware that the rental evidence for the appeal property was incorrect. This applied to that shown on Altus' records, along with the information provided to the VO on the Form of Return. The rental information was not from the lease but part of a Rent Deposit Deed. It was ascertained that the lease covered the whole site, including Units B Bay 3, D, E and F Radnor Park. The parties indicated that the appeal property's rent was not determinative in their individual cases, and both were happy for the hearing of the appeal to proceed.

11 The bundle of evidence before the panel comprised the documents exchanged between the parties as part of the challenge process, together with Mr Le Brocq's Supporting Evidence Statement and photographs.

12 In his evidence and oral presentation, Mr Le Brocq argued that the appeal property was not a 2019 built industrial unit but a 1979 property, with only the roof and external cladding replaced, as would normally be required for any building of its age. He confirmed the original steel truss/portal frame, eaves height, profile under the roof and

concrete floor remained the same, that it still lacked heating and fire protection and it had not had the original electrics and plumbing updated, as assumed by the VO.

13 The appeal property had previously been valued at £30/m^2 within scheme 402469. Following the changes, the property had been valued in accordance with scheme 402706, relating to modern industrial properties, which Mr Le Brocq argued the appeal property was not. He considered that scheme 402572 which covered properties constructed between 1965 and 1979 better fitted the appeal property and proposed a revised rate of £38/m^2, in line with this scheme. The proposed base rate was higher than that previously applied, which he considered fairly reflected the upgrade to the appeal property.

14 Mr Le Brocq referred to 1 Whiteside, Station Road, Crewe, which was confirmed to be approximately 12/15 miles away. This property had an eaves height of 7.09m as opposed to 4.6m at the appeal property. He considered it illogical that the appeal property should be valued at the same base rate as a newly built industrial unit of high specification with enough height for a large mezzanine.

15 Addressing the VO's rental evidence, Mr Le Brocq considered this to be relevant to the 2023 rating list rather than the 2017 list as the transactions occurred between 2018 and 2021.

16 Ms Faulkner confirmed that the appeal property had been moved from a scheme that covered properties constructed between 1965 and 1979 to a post 2000 build scheme as it was considered that the extensive modernisation had made the unit more comparable to properties of this age. She believed the appeal property had been removed from the rating list when the work was done, with only the frame of the original building remaining. It had also been assumed that a full rewire and new plumbing had taken place.

17 Rental schedules had been provided as the VO had originally sought to demonstrate the level of rent passing on the subject in March 2019 was higher than similarly dated rents for units valued within the scheme relating to older properties. Although the appeal property's rent was now shown to be incorrect, she still believed the level of value adopted by the VO was reasonable and argued that due to the level of investment made at the appeal property, a higher rental return would be expected. She was also not persuaded that an older internal frame would reduce the hypothetical tenant's bid for the appeal property.

Decision and reasons

18 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 let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 20 April 2019 (material day) for this appeal.

19 In this case, there was no accurate rental evidence for the appeal property for the panel to consider or compare with the rents of other properties in the locality. Having regard to the arguments of both parties, the panel was persuaded that the revised assessment proposed by Mr Le Brocq was fair and reasonable for the appeal property.

20 Ms Faulkner had argued that the original assessment had been removed from the rating list for work to be undertaken and the panel accepted this. However, it was persuaded by Mr Le Brocq's evidence that the appeal property's upgrade in 2019 could not be viewed as substantial or extensive modernisation. In the panel's opinion, too many of the original elements remained, for example, the low eaves height, the lack of heating, no fire protection, and as Mr Le Brocq confirmed on the day, the original wiring and plumbing had not been upgraded.

21 The panel accepted that work had been undertaken and a hypothetical landlord would expect some increase in the rental bid of the hypothetical tenant to reflect this. However, the panel considered that the £38/m^2 adopted by Mr Le Brocq, which was higher than the rate applied to the unit prior to upgrade, sufficiently reflected the rental increase.

22 Photographs were provided of 1 Whiteside, Station Road, Crewe. The panel accepted that externally this property appeared superior to the appeal property. There appeared to be little justification for the unadjusted rate applied in the appeal property's assessment to be similar to that applied to this comparable property.

23 On balance, and having regard to the available evidence, the panel determined the following revised assessment for the appeal property.

Floor	**Description**	**Area m/^{2}**	**£/m^2**	**Value £**
Ground	Workshop	752.76	£37.05	27,889.76
			Total	27,889.76

Say £27,750 with effect from 20 April 2019.

Order

24 As a consequence of the above, the VO is ordered to amend the appeal property's 2017 rating list entry to £27,750 RV with effect from 20 April 2019, within two weeks of the date of this Order.

Refund of fees

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 (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended). This will be arranged by the Tribunal's administrative office as soon as possible, provided no review of the decision takes place.

Date: 29 February 2024
Appeal Number: CHG100818735

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.