VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Vehicle repair workshop and premises; Level of value; End allowance for quality; Appeal allowed in part.

APPEAL NUMBER: CHG101048379

RE: Citygate Chalfont Workshop, Chalfont Station Road, Amersham HP7 9PN (the "subject property")

BETWEEN:	Citygate Automotive Ltd	Appellant
	and	
	Lucy Formela-Osbourne (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Thursday 27 August 2024

BEFORE: Mr S Levy, Presiding Senior Member
Mr C Derrick, Senior Member

CLERK: Mrs S D Morgan

APPEARANCES: Mr M Evans – Appellant's representative (Altus Group)
Mrs P Rowntree – Valuation Officer's representative

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel confirmed the rateable value (RV) £55,500 with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. Citygate Chalfont Workshop, Chalfont Station Road, Amersham HP7 9PN (the subject property) had been entered into the 2017 rating list as 'vehicle repair workshop and premises' at a RV of £58,500 with effect from 1 April 2017.

4. The challenge proposal was submitted by Altus Group on behalf of Citygate Automotive Ltd and was received by the Valuation Officer (VO) on 22 May 2023. It had been made on the grounds that proposer disputes an alteration to the RV made by the VO. The VO issued a challenge case decision notice which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by the appellant's representative on behalf of the appellant and received by the Tribunal on 12 January 2024.

6. Mr Evans 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), Mr Evans explained that he was instructed on a contingency fee basis and he declared that he understood and accepted his duty 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.

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 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).

8. Mrs Rowntree who appeared on behalf of the Valuation Officer (VO) also stated she was acting in a dual role capacity, as expert witness and advocate.

9. This statement of reasons is not and does not purport to be a full verbatim record of proceedings.

Background

10. The evidence bundle before the panel comprised of the evidence disclosed and exchanged during challenge. It included comparable assessments, location plans, photographs of the subject property and their skeleton arguments.

11. The subject property is a fragmented, dated brick unit which has been earmarked for demolition for a number of years as residential space. It is one of the oldest industrial units in Amersham. It was built between 1919 – 1939 and placed in valuation scheme 415245 applicable to all average industrials (warehouses, factories, workshop and stores) in Amersham Old Town, Amersham New Town and Chalfont St Peter built between 1980 and 1999. It excluded all buildings of 20,000m^2 and above. The value ranges from £55.00/m^2 to £100.00/m^2. The subject property had a total significant area of 992.41m^2 and is valued at an unadjusted rate of £70/m^2 with a 15% adjustment for quality built within the line entries and an end allowance for access of 5%. It has an eaves height of £3.05m.

12. The subject property had main road frontage onto Chalfont Station Road in Amersham.

Preliminary issue

13. At the hearing, the appellant's representative revised his valuation to £39,250 RV based on an unadjusted price of £40/m^2. He was therefore seeking a reduction in the current RV of £58,500 RV to £39,250 RV with effect from 1 April 2017.

Relevant Law

14. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.6 to the Local Government Finance Act 1988, which provides:

"(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.

Discussion

15. The subject 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. Those assumptions are listed in 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 hereditament, the material day was 1 April 2017.

18. 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] RA141. 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.

19. In this case the subject property was said to be held freehold since 2007, so there was no rent passing. However, the valuation officer's representative held a Form of Return where there was a declared rent of £112,500 with effect from 1 January 2017. This was effective from a lease renewal 12 years into the lease when first occupied in February 2005. Following an adjustment and analysis of the rent it equated to £128.81/m^2 which suggested that the unadjusted rent of £70/m^2 was not unreasonable.

20. The appellant's representative referred to two other comparable properties which were in the same scheme as the subject property. Unit 16, St Georges Industrial Estate, White Lion Road, Amersham was built in 1983 and refurbished in 2016. It measured 373.93m^2 and had an eaves height of 5.1m. It had been valued at an unadjusted rate of £75/m^2. Unit 3, Amersham Commercial Park, Raans Road, Amersham was built in 2011. It measured 1,680.68m^2 and had an eaves height of 6.6m. It had been valued at an unadjusted rate of £70/m^2.

21. Reference was also made by the appellant's representative to three comparable properties in valuation scheme 416188. The value in this scheme is applicable to all basic industrials (Warehouses, Factories, Workshops and Stores) in Amersham Old Town, Amersham New Town and Chalfont St Peter. It excludes all buildings of 20,000m^2 and above. These properties included London Bankside Ltd, Winchmore Hill, Units 1A, 1B and 2 Old Amersham Farm and Units 2 and 3 Fairview Estate, Raans Road which were older properties built between 1940 and 1971. They measured between 852.01m^2 and 1496.48m^2 and their eaves height ranged from 3.75m to 5.78m. They had been valued at between £30/m^2 and £40/m^2. He contended that these properties were more reflective of the age, build, size, eaves height with the subject property and supported his view that £40/m^2 was more appropriate for the subject property when based on valuation scheme 416188.

22. The valuation officer's representative referred to three comparable properties which included Paper Stock House, Amersham Road, Chalfont St Giles, Unit 10, Corinium Estate, Raans Road, Amersham and Unit 2, St Georges Industrial Estate, White Lion Road, Amersham. These were built between 1980 and 1999 and had been placed in the same valuation scheme as the subject property. In terms of size, they ranged from 640.45m^2 to 1456.83m^2 and the unadjusted rate was between £69.90/m^2 and £70/m^2 for these properties that had an eaves height over 4.5m.

23. There was a rent review on Paper Stock House from March 2016 with a rent passing of £65,000 per annum. This was a 10-year lease which, following adjustments, analysed to £76.16/m^2. The valuation officer's representative believed this suggested that the unadjusted rate of £70/m^2 for the subject property was not unreasonable.

24. Unit 10, Corinium Estate was comparable in size to the subject property. There was a July 2016 rent review on this property with a rent passing of £95,000 per annum. This was a 10-year lease from July 2010 with 3-yearly rent reviews. The rent analysed to £92.20/m^2 against an adopted value of £69.90/m^2 and supported the level of value for the subject property.

25. Unit 2, St Georges Industrial Estate, White Lion Road, Amersham was smaller in size compared to the subject property. There was a September 2015 rent review on this property, five years into a 15-year 5-month lease. The rent passing was £53,000 per annum which

analysed to £83.29/m^2 against an adopted value of £70/m^2. This again supported the level of value for the subject property.

26. In response to the appellant's representative's comparable properties, the valuation officer's representative went through each one in turn.

27. There was a new letting on Unit 16, St Georges Industrial Estate, White Lion Road, Amersham from November 2016. This was a 10-year lease with 5-year rent reviews. It was a stepped rent agreement from £24,500 rising to £48,999.96 from November 2017. This rent analysed to £97.65/m^2 which supported the level of value for the subject property.

28. There were no rental details held on Unit 3, Amersham Commercial Park, Raans Road, Amersham and therefore it just formed part of the basket of evidence. The tone had not been challenged.

29. London Bankside Ltd, Winchmore Hill, Amersham was one of the comparable properties under a different scheme for basic industrials. The VOA held a Form of Return which indicated a rent passing of £75,000 per annum from March 2002. This was a connected party rent. It analysed to £52.72/m^2.

30. Units 1A, 1B and 2 Old Amersham Farm, High Street, Amersham was also valued under a scheme for basic industrials. The VOA held a Form of Return on this property which indicated a new letting with a rent passing of £22,500 per annum from September 2014 on a 5-year term with rent reviews at 4 years. There was one month rent free. The rent analysed to £45/m^2. There was also a new letting in March 2016 with a different occupier on a 5-year term with rent reviews at 3 years. On a rent review the rent increased to £32,400 per annum from March 2019. This analysed to £80.73/m^2 against an unadjusted rate of £45/m^2.

31. There was a rent review on Units 2 and 3 Fairview Estate, Raans Road, Amersham from June 2014 with a rent passing of £98,000 per annum. This was on a 10-year term with rent reviews at 5-year reviews. On a review the rent increased to £32,400 per annum with effect from March 2019 which equated to an analysed rent of £87.80/m^2 against an unadjusted rate of £30/m^2. This property was valued under a scheme for basic industrials.

32. The valuation officer's representative believed that the rent on the subject property reflected the quality of the unit having been refurbished to the extent that it had had a new roof in 1989 and therefore she considered it was superior to the latter comparable properties put forward by the appellant's representative in a different valuation scheme. Furthermore, if there was a change of scheme then the 15% quality allowance which already existed in the current scheme would no longer apply. The valuation officer's representative contended that the subject property was in the correct valuation scheme and that an unadjusted rate of £70/m^2 appeared reasonable. She added that the adjusted rate would be equivalent to around £55/m^2.

33. The panel examined the evidence provided by the parties. It found that the existing tone of value was supported by the rents which had been put forward for properties within the same scheme as the subject property, that of average industrials, despite its age. Greater weight was therefore given to the rental evidence where the established unadjusted tone was around £70/m^2. However, having looked at the photographic evidence, the panel found that there was a quality difference for those within the same scheme with the subject property appearing to be of a lesser quality than the comparable properties. It therefore considered

that a further 5% was justified as an end allowance for quality. The panel therefore determined the following.

Floor	Description	Area	Relativity	Price	Value
Ground	Reception	94.2	0.995	£69.62	£6,558
Ground	Internal Storage	78.26	0.787	£55.11	£4,313
Mezzanine	Internal Storage	78.26	0.414	£29.01	£2,270
Ground	Workshop	356.9	0.829	£58.01	£20,704
Ground	Workshop	88.1	0.829	£58.01	£5,111
Ground	Workshop	100.1	0.829	£58.01	£5,807
First	Office	163.35	0.912	£63.82	£10,425
Ground	Office	21.8	0.912	£63.82	£1,391
Ground	Internal Storage	45.7	0.829	£58.01	£2,651
Ground	Internal Storage	44.0	0.829	£58.01	£2,552
			Sub total		£61,782
	Access	-5%			-£3,089
	Poor Quality	-5%			-£2,935
			Total		£55,758
			Say		£55,500

34. In view of the foregoing, the panel is satisfied that the subject property should be reduced to £55,500 RV with effect from 1 April 2017. Consequently, the appeal was allowed in part.

Disposal

35. 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 £55,500 RV with effect from 1 April 2017.

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

37. 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 issued to parties: 26 September 2024

Right of further 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.
