THE VALUATION TRIBUNAL FOR ENGLAND

*Non-domestic rating appeal; 2010 rating list; challenge against compiled list entry; office and premises; number of assessments; comparable assessments; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.*

RE: 1 Mere Green Road, Sutton Coldfield B75 5BL

APPEAL NUMBER: 36326799

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| BETWEEN: | Mr P Bennett | Appellant |
| | and | |
| | Ms A Morley (Valuation Officer) | Respondent |

PANEL: Dr Elizabeth Stuart-Cole (Presiding Senior Member)
Mr SP Wood (Senior Member)

CLERK: Miss F Willson

REMOTE HEARING ON: 9 October 2023

APPEARANCES: Mr P Bennett (the appellant)
Mr M Bennett (the appellant's son)
Mr M Nafis (on behalf of the Valuation Officer).

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**Summary of decision**

1. Appeal dismissed. The rateable value (RV) of 1 Mere Green Road, Sutton Coldfield B75 5BL (subject property) is confirmed at £14,000 with effect from 1 April 2010.

## Introduction

2. This was a 2010 rating list appeal arising from a proposal made by the appellant in respect of the subject property entry in the rating list at £14,000 RV as ‘shop and premises’ effective from 1 April 2010. The appellant sought a split of the subject property into two separate hereditaments with effect from 1 October 2015. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was not well founded and a decision notice to this effect was issued and the subject property remains one entry in the rating list.

3. The subject property was constructed between 1919 and 1939. It is situated in a mixed use building. There is one entry in the 2010 rating list for the subject property ‘shop and premises’ with an RV of £14,000 with effect from 1 April 2010.

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

## Issue

5. The issue in dispute was the number of hereditaments contained in the subject property from 1 October 2015.

## Evidence and Submissions

6. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged which included rental evidence, the parties’ skeleton arguments and photographs of the subject property.

7. The appellant submitted that the appeal should be allowed, and the subject property should be split into two separate entries in the rating list.

8. Mr Nafis requested that the tribunal dismiss the appeal and confirm the one entry for the subject property RV of £14,000 with effect from 1 April 2010.

## Decision and Reasons

9. When assessing the rateable value of a property the panel is required to apply the statutory definition which is set down in Paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988 as amended by section 1(2) of The Rating (Valuation) Act 1999.

   Rateable Value is defined 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 the assumption that:

   (a) the tenancy begins on the day by reference to which the determination is to be made;

   (b) 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; and

   (c) the tenant undertakes to pay all usual tenant’s rates and taxes and to bear the cost of repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command that rent mentioned above.

For the purpose of determining the rateable value of a hereditament for both compilation and maintenance of a rating list, the day by reference to which the determination is to be made (the valuation date) is by paragraph 2 sub-paragraphs (3) and (4) of Sch. 6 either:

(a) the day on which the list must be complied, or

(b) such day preceding that day as may be specified by the Secretary of State by order in relation to the list.

For all Rating Lists compiled post 1990 a day preceding the compilation date has been set, in all cases the date precedes the compilation date by 2 years and has become known as the Antecedent Valuation Date (AVD).

10. Section 64(1) of the Local Government Finance Act 1988 defines a hereditament as anything which would before the passing of the Act have been a hereditament for the purposes of section 115(1) of the General Rate Act 1967. That means a “property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the valuation list.”

11. Mr Bennett submitted that the subject property was in fact occupied by two separate companies being VR Helms and Century 21 Letting. The shop space is occupied by VR Helms at the front and Century 21 Lettings at the rear of the shop area. He confirmed that the signage on the front of the subject property was only for Century 21 Lettings as they determined that it would be more beneficial to have that company advertised. VR Helms operated employing plumbers and other work men to maintain the upkeep of the various properties let by Century 21. They were therefore completely separate companies providing different services. He submitted that although the photographs showed there was no wall between one part of the shop and the other this was necessary due to the layout of the building so the staff could access the toilets.

12. The panel was aware that in order to be two separate hereditaments, each hereditament must have the right to exclusive occupation and that was not the case where employees from one company had to walk through the other company’s part of the shop. The panel therefore put little weight on this argument.

13. Mr Nafis submitted that the two areas of the subject property were not separated in any way and in fact overlapped and so could not be defined separately. He also argued that the two companies had similar if not the same directors being Mr P and Mr M Bennett. In his opinion the two companies were interconnected and therefore the subject property was not occupied by two different occupiers and could therefore not be split into two rating list entries.

14. The persuasive or legal burden of proof was on the appellants to prove their case and the panel found that they had not discharged that burden. The panel found that the evidence it had been provided suggested that the subject property was one single hereditament. The panel was not persuaded by the appellant’s submission that there were in fact two separate assessments and the subject property should be split into two.

15. The panel therefore dismiss the appeal and confirmed the subject property with an RV of £14,000 with effect from 1 April 2010.

**Date:** 8 November 2023

**Appeal number:** 36326799

**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.