THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Car park and premises; Compiled List Entry; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed in part.

Re: Multi-Storey Car Park, The Square, High Street, Newcastle-under-Lyme, Staffs ST5 1PT

APPEAL NUMBER: CHG100035710

BETWEEN:	KRNS Properties Limited	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL: Mr I Lonsdale (Senior Member)

CLERK: Miss K Hendry IRRV (Tech)

APPEARANCES: Mr A Fowke of Altus Group (expert witness on behalf of the appellant)
Mr P Emerick of Altus Group (advocate on behalf of the appellant)
Mr M Hetherington on behalf of the Valuation Officer

REMOTE HEARING on Monday 19 October 2020

Summary of decision

1. Appeal allowed in part. I determine the rateable value (RV) of the appeal property to be £166,000 RV with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Multi-Storey Car Park, The Square, High Street, Newcastle-under-Lyme, Staffs ST5 1PT which was entered in the 2017 rating list as “car park and premises” at rateable value £188,000 effective from 1 April 2017.

3. The appellant’s challenge proposal to the Valuation Officer was made on 28 June 2018, the Valuation Officer’s challenge decision was given on 14 November 2019. The appellant’s appeal to the Valuation Tribunal for England (VTE) was made on 12 December 2019.

4. Following the appellant's Challenge, the Valuation Officer altered the appeal property's assessment in the rating list to £179,000 RV, with effect from 1 April 2017.

5. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with the Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

6. Therefore, in pursuance of regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

7. In accordance with the Tribunal's Business Arrangements, I have been authorised to consider and determine this appeal alone.

8. The appeal property is a 1960s built multi-storey car park which features 299 spaces. It is constructed of a concrete frame with concrete floors. It is situated on High Street in Newcastle-under-Lyme town centre, approximately three miles from junction 15 of the M6.

9. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

10. The issue for me to determine was the correct rateable value to be attributed to the appeal property in the 2017 Rating List.

Evidence and submissions

11. The appellant's representative, Mr Fowke, had provided the Tribunal with both parties' submissions.

12. Mr Fowke was seeking a revised rateable value of £96,000 and relied on the following evidence:

    a. In Mr Fowke's opinion, the proper regard had not been given to the full profit and loss accounts and the appeal property should be valued on a receipts and expenditure basis. By analysing the appellant's trade figures for 2014, the available amount after all expenditure calculated out to £192,624. If the profit was split equally between the hypothetical landlord and the tenant, the rent to the landlord equates to £96,312. Based on this, the RV would be £96,000 or £322.11 per car parking space. He submitted a revised valuation based on this method of valuation as:

Revised Rateable Value based on annualised 2014 accounts			
Income			**£417,989.37**
Expenditure	Staff Costs	Salaries	£8,828.11
		Security	£101,927.43
	Rates	Rates	£54,389.37
	Utilities	Electricity	£9,532.60
		Water	£2,598.60
		Telephone/Alarm Lines	£1,031.69
	Maintenance	Lift Repairs	£14,267.54
		Lift Maint Contract	£7,131.43
		Car Park Equipment Repairs	£294.17
		Car Park Equipment Maintenance	£17,399.20
		Other Maintenance	£4,263.05
	Finance Costs	Transaction Charges	£1,974.04
	Consumables	Tickets	£1,728.29
		TOTAL	**£225,365.52**
Profit/Loss			**£192,623.85**
Client (Risk, reward and working capital)		50%	£96,311.93
Landlord (Rent)		50%	£96,311.93
		Rateable Value	**£96,000**

b. Looking at comparable properties in the ST postcode, it is clear that the current value of £600 per space is unfair and out of line. The most comparable car park in terms of age, location, accessibility and pricing is The Midway car park.

c. The Midway, Newcastle-under-Lyme, Staffs, ST5 1QG is a 1970s car park with 654 spaces and is situated adjacent to the appeal property. The price per space is £285.21 which is significantly lower than the appeal property. Other comparable car parks in the locality range from £320.00/space to £368.82/space. The age, location, accessibility and pricing are almost identical to the appeal property. Yet the price per space is £285.21.

d. The current method of valuation based on a percentage of the fair maintainable trade (FMT) does not account for the high running costs associated with this car park. It is costing the appellant an annual outlay of £100,000 towards 24 hour security due antisocial behaviour and to prevent the instances of suicide. As a result, this makes the car park attractive to customers and causes the appellant to over trade.

13. To support the rateable value in the 2017 list, the Valuation Officer relied upon the following evidence;

a. Car parks are valued on a percentage of the fair maintainable trade (FMT). The percentages are derived from rental analysis. The percentage adopted is based upon factors such as location, age of the car park, the area and the attraction it serves.

b. Receipt and expenditure basis is not normally a suitable method of assessing car parks and it would not be appropriate to do so in terms of the appeal property as it would produce a valuation out of line with the locality.

c. There is no evidence provided to support that the appellant is over trading. The appellant only provided trade information from 1 May 2014 to 31 December 2014 due to taking possession of the car park then. The additional cost on security is done so to attract customers which results in a higher FMT and profit. This is supported by the gross receipts in 2008. There has been a 76% increase and no evidence has been provided to show this is solely down to security measures at the car park.

d. The appeal property was entered into the list based on 45% of the FMT, which was reduced to 43% following the Challenge. The Midway has been valued at 40% of the FMT which shows a fall in demand from this car park as shopping habits change. It is not as desirable to the hypothetical tenant and they are likely to seek much lower income and thus returns. In his opinion, Mr Hetherington stated that the appeal property is better than The Midway, which is why the adopted percentage is 43%

e. In support of the adopted percentage of 43%, Mr Hetherington referred to the following comparable properties;

    i. **King William Street, Exeter EX4 6PD**, this is a 1960/70s build and located close to the central shopping area of Exeter, refurbished and rebranded as the John Lewis car park in 2012. Therefore the FMT was demonstrated to have increased as a result. An agreement reached on the FMT and to adopt 42.5%.

    ii. **Houndshill Shopping Centre Car Park, Coronation Street, Blackpool FY1 4NY**, this is a 1980s build, on the roof of the shopping centre. It is well located for central Blackpool attractions such as the Tower and Winter Gardens. Following discussions an agreement was reached at 43% of the FMT.

f. Mr Hetherington stated that if the panel was to accepted the appellant's case, then it would equate to 23% of the FMT which cannot be right, the appeal property would be underassessed in comparison with the comparable properties put forward.

g. He went on to explain that the panel should not accept any other method of valuation than an adopted percentage of FMT. The receipt and expenditure revised calculation put forward by the appellant's representative is flawed as it contains disregarded elements such as all maintenance and calculation for rates.

Decision and reasons

14. I had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

15. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "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.

16. 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.

17. Having regard to the evidence and arguments of the parties, I conclude that the appeal property should not be valued by any other method than by a percentage of the FMT to be applied. All car parks have been valued by this basis and there was no strong supportive evidence to persuade me to adopt the receipts and expenditure method. I placed little weight on the revised valuation put forward by the appellant's representative as it contained errors within the calculation.

18. As I concluded that the correct method of valuation is to be the percentage of FMT adopted, I had regard to the comparable properties put forward by both parties to assist me in making a decision as to what the correct level of percentage adopted should be.

19. I turn to the comparable property provided by Mr Hetherington and conclude that they are of no real assistance as they are located too far away from the appeal property.

20. I find the best comparable is that provided by the Mr Fowke in respect of the The Midway, Newcastle-under-Lyme, Staffs, ST5 1QG. It is located next to the appeal property and is almost identical in age, location, accessibility and pricing. Mr Hetherington confirmed that The Midway had been accessed on 40% of the FMT. I therefore conclude that 40% should also apply to the appeal property.

21. Therefore, 40% of an FMT of £417,000 equates to a revised rateable value of £166,800 rounded to £166,000 RV. This equates to £557.86 per space, based on 299 spaces, in accordance with the Valuation Office Agency rounding policy.

22. Accordingly, the appeal has been allowed in part.

Order

23. 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 alter the appeal property's entry in the 2017 Rating List to £166,000 RV with effect from 1 April 2017.

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

Date: 2 November 2020

Appeal number: CHG100035710