THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal – Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council [1976] RA 141 – lease on appeal hereditament – rental evidence – weighting of evidence – condition of property – access issue – appeal dismissed

Re: Unit 3, Atworth Business Park, Melksham, SN12 8SB

APPEAL NUMBER: CHG100045316

BETWEEN:	Stevens & Stevens LLP	
	(Bristol Soaps)	Appellant
	and	
	The Valuation Officer	Respondent

PANEL;	Mr S Kandola (Senior Member)
	Miss E F Blois
CLERK:	Mr A Jolly
REMOTE HEARING	Tuesday 16 February 2021
APPEARANCE:	Mr D Wagstaffe of Altus Group representing Stevens & Stevens (Bristol Soaps) – appellant
	Mr K Davidson representing the Valuation Officer - respondent

Summary of decision

1. Appeal Dismissed. Rateable Value confirmed at £53,500 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: An appeal dated 23 June 2020 against the Valuation Officer's Challenge Case Decision Notice of the 24 February 2020 in which the Valuation Officer made no amendment to the entry in the Rating List.

3. 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.

4. 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.

5. 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.

Preliminary Issue

6. During the hearing Mr Davidson introduced a Transport Report for the estate where the appeal hereditament was located as part of a recent planning consent. This was new evidence which had not been submitted at challenge stage or as new evidence in accordance with the direction. Mr Davidson stated that during challenge stage when they issued their initial response they had requested certain information from the appellant’s representative by a certain date but that the information had not been provided by that date so they issued their Challenge Decision Notice. After issuing the Decision Notice the appellant’s representative had provided some of the information, but he had been on leave so had not been able to respond by the deadline. Mr Davidson stated that he had accepted the appellant’s information as part of the appeal but had been unable to respond to it as the decision Notice had been issued.

7. Mr Wagstaffe opposed the new evidence as he had not been made aware of it before the hearing but was happy for information relating to the inspection made by Mr Davidson be admitted.

8. Mr Davidson stated that he was content not to introduce the transport report.

Issues

9. The issue before the panel concerned the price per m² to be adopted for the appeal hereditament having regards to the rent of the appeal hereditament and other rental evidence.

Evidence and submissions

10. Mr Wagstaffe informed the panel that the appeal hereditament was a 1940/50s building of dated construction and fitted out to a basic standard. It was 2115.61 m² and had been valued at £26 per m² with a 5% allowance for access issues. He explained that the appeal hereditament was in a rural location outside of Melksham and the access to Atworth Business Park was via a narrow entrance past residential properties. Also, he stated that there was limited space in which lorries, especially articulated lorries could manoeuvre to access the appeal hereditament.

11. Mr Wagstaffe stated that the other units on the Estate were considerably smaller at below 675 m² and were valued at a higher rate per m² of £30 due to the effects of quantum.

12. Mr Wagstaffe stated that it was his contention that an overall price per m² of £17.50 be adopted or alternatively a value of £18.50 per m² with a 5% allowance be adopted.

13. Mr Wagstaffe referred the panel to the Land Tribunal Decision of *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 which sets out a hierarchy of evidence with the starting point being the actual rent on the appeal hereditament and how much importance should be attached to the actual rent. He stated that the lease was a renewal from 1 September 2015, close to the antecedent valuation date of 1 April 2015 at a value of £38,000 per annum. This rent analysed to £17.44 per m² and he considered provided the best evidence. He accepted that part of the property was sub-let, but that sub-letting was a minimal part and did not form a separate hereditament. Also, the person who sub-let part of the unit only paid rent at £3,000 per annum and was not responsible for any other costs. He considered the sub-letting to have minimal impact on the analysed rent.

14. He stated that the third principle of *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 was rental evidence on similar properties. He explained that the Valuation Officer had provided four rents to support his contention that £26 per m² was correct. He stated that two of the units were located on the same Estate as the appeal hereditament but were considerably smaller and therefore were valued at a rate per m² but this was supported by their rents. Also, he stated that one of the properties was shown on its valuation as being offices.

15. Mr Wagstaffe then referred to the rent on Hanger 19, Colene Industrial Park. He stated that this may have been a special purchase as the lease was open ended and the occupier had leased no. 18. He informed the panel that this was a former hanger and therefore the eaves height was approximately double that of the appeal hereditament and did not have access issues. It was on a different valuation scheme and in his opinion a poor comparable property. He also referred to 16-28-12 Lancaster Road which was a considerably larger purpose-built distribution warehouse at 18,841 m² and was located on the main business estate in the locality. The property has since been removed from the Rating List as it is undergoing redevelopment. He did not consider this property to be sufficiently comparable to the appeal property to provide an indication as to its RV.

16. He stated that having considered all the evidence the best evidence was that of the rent for the appeal hereditament which supported his contention of an overall rate per m² £17.50 being applied.

17. In questions Mr Wagstaffe confirmed that his clients were moving from the inferior appeal property to a newer unit on the same Industrial Estate. He stated that he was not aware of a transport report in relation to the newer units on the same estate but those properties had a wider apron in front of the properties which would allow larger lorries to turn around which was not available in front of the appeal property. Mr Wagstaffe also confirmed that he was not seeking a 20% allowance for the access issue and that the subletting would have minimal effect and would not skew the analysed rent to any great degree.

18. Mr Davidson stated that he had inspected the appeal hereditament on 21 October 2020. He confirmed that the property was located on a small rural industrial estate and the property was built in 1940/50s. He also stated that there were two newer units on the estate where recent planning consent had been granted and he was aware that the appellant was soon to move into one of the units.

19. He stated that he had sought a copy of the lease but this had not been forthcoming and that a copy of the lease may resolve a few issues concerning the condition of the property and

also whether there was a rent free period as the lease commenced in September 2015 but according to the appellant rent was not paid until April 2016.

20. Mr Davidson stated that when he inspected the property it had a leaking roof and was in a poor condition and required refurbishment. He stated that he was unsure whether the rent had reflected the condition of the property and if it was the lease would show this in the way of a schedule of repair to avoid a situation when dilapidations were being considered at the end of a lease.

21. In support of his contention that £26 per m² was correct Mr Davidson cited four rents. Two of the rents were for other hereditaments on the same estate. He accepted that they were smaller hereditaments and for that reason the price per m² was higher at £30 which was reflected by their rents. Having regards to those rents he was satisfied that £26 per m² for a large unit was correct.

22. Mr Davidson then considered what was available in the locality for the value sought by the appellant's representative. 16-28-12 Lancaster Road had an analysed rent of £16.97 but this property was considerably larger at 18,841 m² compared with 2,115 m² for the appeal property. Another property, whose analysed rent was £27.49, was larger at 4,328 m² which he considered supported £26 per m² for the appeal property. He accepted that this had a higher eaves height and the lease was open ended.

Decision and reasons

23. The panel noted that the rent for the appeal hereditament had been agreed at £38,000 per annum close to the antecedent valuation date but the panel considered there appeared to be a number of anomalies regarding the lease in relation to the condition of the property and also whether a rent free period was applied. As the panel was not provided a copy of the lease to ascertain whether the rent paid reflected the condition of the property or whether there was a rent-free period. As there were doubts raised in relation to the amount paid and rent-free periods the panel could not rely on the rent passing alone when considering the rateable value of the property.

24. The panel considered the rents in relation to the other hereditaments on the same Industrial Estate. These properties were smaller than the appeal hereditament at 664 m² and 674 m² and had been valued at £30 per m². The panel considered that, due to the difference in size, there would be a difference in price per m² with smaller hereditaments achieving higher rental levels. Whilst the panel accepts there would be a difference in price due to quantum the panel were not convinced that the difference would equate to over £12 per m².

25. The panel had been provided with two other rents. It was noted that these hereditaments were in different localities with one being the main industrial estate for the Melksham area. The panel also noted that Hanger 19 was substantially larger and had a greater eaves height and no access issue. The panel considered that as these were larger properties, one being double the size of the appeal property and the other being some nine times the size, their values would be lower than the subject property due to the effects of quantum.

26. From the evidence presented, and not being able to rely on the analysed rent for the appeal property, the panel had not been persuaded by the appellant's representative that £26 per m² was incorrect.

27. The panel noted that an allowance of 5% had been provided for the issue of access in previous list. Whilst the appellant’s representative had sought an overall price in his valuation, he had also provided an alternative which had included a 5% allowance. The panel was satisfied that this allowance should remain.

28. The panel therefore dismiss the appeal and confirm the RV appearing in the 2017 Rating List of £53,500 with effect 1 April 2017.

Date: Wednesday 3 March 2021

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