THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Office and premises; Price per square metre; Assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed in part.

Re: Wreabrook Court, Lytham Road, Warton, Preston PR4 1TE

APPEAL NUMBER: CHG100063921

BETWEEN:	H M Land Registry	Appellant
	and	
	Mr R Roberts (Valuation Officer)	Respondent

PANEL: Mrs AE Fielder (Senior Member)

CLERK: Miss K Hendry IRRV (Tech)

APPEARANCES: Mr B Peers of Cushman & Wakefield (Appellant's Representative)
Mr B Slater (Valuation Officer's Representative)

REMOTE HEARING on Tuesday 1 December 2020

Summary of decision

1. Appeal allowed in part. I confirmed a revised rateable value (RV) of £335,250 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Wreabrook Court, Lytham Road, Warton, Preston PR4 1TE which was entered in the 2017 rating list as "Office and premises" at £357,500 RV effective from 1 April 2017.

3. Following the challenge submitted, Mr Peers proposed that the RV should be reduced to £290,000 with effect from 1 April 2017.

4. The appellant's challenge proposal to the Valuation Officer was made on 13 December 2018. The Valuation Officer issued a challenge decision on 29 April 2020, which stated that

the rating list entry was considered to be reasonable, and therefore there would be no amendment made. The appellant's appeal to the Valuation Tribunal for England (VTE) was received on 25 August 2020, and made on the grounds that the RV is excessive.

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. Mr Peers 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 Peers declaration of truth included a statement that he was instructed under a contingency based fee.

9. Mr Peers declaration confirmed that 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 or not the evidence supported the client's case.

10. I 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 was 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).

11. I therefore considered the "expert" evidence and attached such weight to it as I saw fit.

12. 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 myself before coming to my decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

13. The issue was the correct RV to be attributed to the appeal property in the 2017 Rating List.

Evidence and submissions

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

15. Mr Peers was seeking a revised RV of £290,000 and relied on the following evidence:

a. Having considered comparable buildings in the locality it is apparent that the 2017 assessment is excessive based on the fact that other properties of a similar size and specification have seen an RV decrease between the 2010 and 2017 Rating Lists. Whereas Wreabrook Court has increased by 6% as it was valued in the 2010 list at £87.50/m^2, and increased in 2017 to £93/m^2.

b. Mr Peers stated that the appeal property was in a semi-rural location near Lytham St Annes. Unlike comparable properties he had put forward the appeal property suffered from a lack of good public transport. The building lacked air conditioning. The only air conditioning in the building was in the server rooms for information technology. The appeal property was built in 2000 but was commissioned specifically for the ratepayer from 1980's blueprints and therefore it would not suit the hypothetical tenant coming fresh to the scene.

c. Mr Peers referred to the following main comparable properties;

   I. New City House, 57-63 Ringway, Preston PR1 2QD

   This is an eight storey purpose built office building with 97 on-site surface level car parking spaces. The building was refurbished in 2002 and again in 2014 and provides good quality office accommodation. It is situated on the perimeter of Preston city centre, 9.6 miles away from the appeal property. It was in the list in 2010 at £347,500 RV and decreased by 18% to £285,000 in the 2017 list.

   It was valued at £78/m^2 in 2010, reduced to £60/m^2 in 2017. A difference of 23.08%.

   II. Gateway House, 200 Ringway, Preston, PR1 2QD

   This office measures 1,752.60sqm over two floors. The building is of masonry and steel frame construction and benefits from a large front reception. It is situated 9.6 miles away from the appeal property, on the perimeter of Preston city centre adjacent to the central ringway. It was in the list in 2010 at £191,000 RV and decreased by 19% to £154,000 in the 2017 list.

   It was valued at £92/m^2 in 2010, reduced to £72/m^2 in 2017. A difference of 21.74%.

   III. Indemnity House, Sir Frank Whittle Way, Blackpool, FY4 2FB

   This property is of similar age to the appeal property, built in 2001. However it is smaller than the appeal property measuring 1,410sqm. It is located 7.8 miles away, very close to Blackpool airport and the M55.

   It was valued at £120/m^2 in 2010, reduced to £85/m^2 in 2017. A difference of 29.17%.

IV. **Viscount Court, Sir Frank Whittle Way, Blackpool FY4 2FB**

This property is located on the same office park as Indemnity House. It was valued at £120/m^2 in 2010, reduced to £85/m^2 in 2017. A difference of 29.17%.

d. Mr Peers stated, in his opinion the appeal property should be brought in line with similar assessments in the immediate vicinity, and therefore a 19% reduction should apply. This equated to a revised RV of £290,000 with effect from 1 April 2017.

16. To support the RV in the 2017 list, the Valuation Officer relied upon the following evidence;

a. Mr Peers has compared the 2010 rating list with the 2017 rating list and the percentage movement in the RV's. However it is an accepted convention that at revaluation, valuations are made on a 'de novo' basis according to the best evidence presented for a given type of property and locality at the Antecedent Valuation Date (AVD). Furthermore, relative movements of value between the rating lists are not useful guides to value especially when the properties are in different geographical areas with different levels of demand and supply.

b. Mr Slater referred to the case of *Mears Ltd v Smith (VO*) (234518338273/125N10) and quoted the following paragraph from the decision;

> *"The revaluation of non-domestic properties reflected changes in rental values between 1 April 2003 and 1 April 2008. In compiling a rating list, it was essential that every hereditament appearing in that list was individually assessed by the Valuation Officer. With this in mind, the panel held it would have been erroneous for the Valuation Officer to simply uplift each entry that appeared in the 2005 list by a uniform percentage, in order to arrive at the 2010 rating list figure"* and *"the starting point for 2010 list entries must be evidence which relates to the AVD, 1 April 2008, rather than from the previous rating list as contended by the appellant's representative, as this was sourced from an entirely different pool of rental information. The rents passing are considered afresh at a revaluation when the Valuation Officer seeks to establish a tone of values."*

c. Mr Slater confirmed that he is aware of the locality and disagreed with Mr Peers in regards to the lack of transport. He referred to the map provided and pointed out that the appeal property is located on the A584 which is a main road that runs from Preston all the way to Blackpool. He stated that there would be public transport available along this road as it was busy given the appeal property was situated near the Warton Aerodrome and Lytham train station.

e. The comparable properties New City House and Gateway House are both located within Preston city centre and is a different office market compared to the appeal property.

f. Mr Slater referred to the following comparable properties:

I. **ITSA Control Centre, Brunel Way, Blackpool FY4 5ES**

This was purpose built in 1994 and is 7.1 miles away from the appeal property. It is located on a business park on the outskirts of Blackpool and is occupied by DWP. It is considerably larger at 14,805.2sqm but only six years older and very similar in character and use. It is valued at £93/m^2.

II. **Serco House, Ballam Road, Lytham St Annes, Lancashire, FY8 4LE**

1960's build but underwent a major refurbishment in 1990. Only 3.2 miles away from the appeal property. It has a total area of 6,627.7sqm and has been valued at £102/m^2.

III. **The Moorland Building, Preston New Road, Blackpool, FY3 9YP**

This is purpose built in 2009 and is located 6.9 miles away from the appeal property on the outskirts of Blackpool. It measures 4,107.91sqm and has been valued at £92/m^2.

g. Mr Slater stated in his opinion the comparable properties he had put forward are more comparable to the appeal property. They reflect more about the stand alone individuality which sets the appeal property apart from other office assessments located on large business parks or city centres. The three comparable properties above demonstrate that the range in tone value for assessments similar in character to Wreabrook Court is between £93/m^2 and £102/m^2. Therefore he sought for the RV to be confirmed at £357,500 RV.

Decision and reasons

17. After due consideration of all of the evidence submitted by the parties, I determined that the appeal should be allowed in part.

18. In deciding this appeal I was governed by rating legislation laid down by Parliament which defines Rateable Value: Schedule 6 to the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999, defined that the Rateable Value of a non-domestic property shall be taken to be the amount equal to the rent at which it was estimated the property might reasonably be expected to let on a year to year basis on these three assumptions:

i. The first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

ii. 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;

iii. The third assumption is that the tenant undertakes to pay all the 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

19. For the 2017 rating list the 'day by reference to which the determination is to be made' is the AVD of 1 April 2015. Economic factors must be assumed to be as they were at that date for the purposes of estimating RV. Apart from the statutory assumptions as to reasonable repair, matters affecting the physical state of the hereditament, and the physical state of its locality, are taken to be as they actually were at the "material day". In determining any

appeal under the above hypothesis, it is necessary to have regard to matters referred to in Paragraph 2 (7) of Schedule 6 to the Act, those being, broadly, the physical nature of the property and its locality, as they stood at the 'material day'. This date is determined in accordance with the grounds of the proposal giving rise to the appeal. The material day for the purposes of this appeal is 1 April 2017.

20. In order to determine the correctness or otherwise of the assessment of the appeal property, I looked at the evidence available.

21. I found authoritative guidance in the Lands Tribunal's judgment in *Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council* (1976) RA 141, regarding the weighting of evidence. In all cases, the passing rent on the appeal property should be used as the starting point in its consideration of the RV for the appeal property. The more closely that rent matched the rating hypothesis, then the more weight should be attached to it. With this in mind, I was informed that no rent was available as the appellant was the owner of the appeal property. Therefore I turned to comparable properties to determine whether the adopted rate on the appeal property was excessive.

22. Of all the comparable properties put forward by the parties, I considered the strongest to be Axa Insurance Plc, and Serco House, both situated on Ballam Road, Lytham St Annes FY8 4LE. Both these properties were the closest to the appeal property being 3 miles and 3.2 miles away. I placed very little weight on all other comparable properties. Especially those located within Preston city centre as I accepted Mr Brian's contention that they are a different type of office market.

23. I will now look at the two comparable properties in more detail:

I. **Axa Insurance Plc**
This was built in the 1960's but refurbished in 1995. It measures 6,189.63sqm. In the 2010 list it was valued at £78/m^2 and in 2017 it increased by 3.85% to £81/m^2.

II. **Serco House**
This property again is a 1960's building but was refurbished in 1990, making it slightly older than the appeal property which was built in 2000. It is slightly bigger than Axa Insurance at 6,627.70sqm. In the 2020 list it was valued at £97/m^2 and in 2017 it increased by 5.15% to £102/m^2.

24. I am in agreement with Mr Slater's argument that each list should be considered independently and approached with some caution. However, I find that given both comparable properties in this location saw an increase in the 2017 list, it did not support Mr Peers argument for a 19% reduction to £290,000 RV. However, when looking at the appeal property and the fact it has increased in the 2017 list by 6.29%, I do find that this is slightly excessive in comparison with the two comparable properties which increased by 3.85% and 5.15%. I conclude that an increase of 4.5% is better suited to the appeal property. This equates to a revised value of £91.44/m^2 from £93/m^2.

25. In regards to the accessibility, having viewed the map provided by the parties I am not of the opinion that the appeal property is disadvantaged by it's location, given that it is on the A584 which runs from Preston all the way along the coast to Blackpool. Also, the appeal property is not far from Lytham train station and I find it hard to believe that there is no access to public transport along such a main road.

26. Mr Peers did bring to my attention that the property was commissioned with specific requirements for the appellant, built from 1980's blueprints although the property was built in 2000. It lacked air conditioning except within computer server rooms. As it was built specifically for HM Land Registry, the property would be disadvantaged as it would not necessarily suit a hypothetical tenant. As Mr Slater did not offer any argument against this, I am of the opinion that a 5% end allowance should apply for the uniqueness of the building.

27. Therefore the valuation is revised as follows:

Floor	Description	Area M²	£/m²	Value £
Ground	Main Building	1649.50	91.44	£150,830
First	Main Building	1602.20	91.44	£146,505
Ground	Staff Facilities Building	371.80	91.44	£33,997
Ground	Plant Room		0.00	£0
Ground	3 Lock Up Garages	57.50	46.50	£2,674
Ground	Garden Store	3.60	9.30	£33
Ground	Plant Room (Main Bldg)		0.00	£0
Total Area		3775.20		
Sub Total				£334,039
Car Parking		Spaces	Value £	
		189	£18,900	
				£18,900
Sub total				£352,939
End Allowance for building 5%				£17,647
Total Value				**£335,292**
Adopted Rateable Value			**SAY**	**£335,250**

28. Accordingly, the appeal has been allowed in part at £335,250 RV with effect from 1 April 2017.

Order

29. Under the provisions of paragraphs (4) and (9) of Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Tribunal orders the Valuation Officer to alter the List within two weeks of the date of this order to show a revised Rateable Value of £335,250 with effect from 1 April 2017.

Refund of fees

30. 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).

Date: 7 December 2020

Appeal number: CHG100063921