

THE VALUATION TRIBUNAL FOR ENGLAND



2017 Rating List Appeal - Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council [1976] RA 141 – weighting of evidence – new lettings and rent review evidence – locality – appeal allowed

Re: Unit 2 Europa Court, Sheffield Business Park, Sheffield, S9 1XE

APPEAL NUMBER: CHG100070766

BETWEEN:	Excel Parking Services Ltd	Appellant
	and	
	The Valuation Officer	Respondent

PANEL;

Mrs L Bryning
Mr C Bryan

CLERK:

Mr A Jolly

REMOTE HEARING:

Wednesday 2 December 2020

APPEARENCES:

Mr S Hornby of Gerald Eve acting on behalf of the occupier Excel Parking Services Ltd (appellant)
Mr N Green acting on behalf of the Valuation Officer (respondent)

Summary of decision

1. Appeal Allowed. Rateable Value £74,000 determined with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: An appeal received on 7 September 2020 against the Valuation Officer's Challenge Case Decision Notice dated 2 July 2020.

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.
6. Mr Hornby 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 Hornby’s declaration of truth included a statement that he was not instructed under any conditional fee arrangement. Mr Hornby declared 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.

Issues

7. The issue before the panel concerned the price per m² to be adopted having weighted the evidence in accordance with the Lands Tribunal (now known as the Upper Tribunal) decision of *Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141.

Evidence and submissions

8. Mr Hornby informed the panel that the subject property was a two-storey office building on a purpose-built modern business park located approximately five and half miles east of Sheffield City Centre and was close to the M1 Motorway. Europa Court comprises six free standing office buildings with associated car parking built between 2003 and 2006. The appeal property was held on a 10 year lease from 1 October 2010 with a rent review in October 2015. The rent passing was £77,490 with effect from 1 October 2015. The property had originally been entered in the Valuation List at RV £91,500 but this was increased to £92,500 from 31 December 2018 due to Mr Hornby informing the Valuation Officer that the property benefited from raised floors.
9. Mr Hornby referred the panel to the Lands Tribunal decision of *Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 and the principles that it established in the weighting of the available evidence. He considered that the rent passing on the appeal property, although following a rent review was based on market levels as it was not restricted by an upward only clause, together with the other rental evidence from Europa Court ,was adequate evidence that the price per m² should be £80 and not the

£102.50 currently adopted. In support of his contention he provided details of leases within Europa Court dated from 24 October 2011 to October 2015 which he had analysed between £63.58 and £83.86 per m². He considered the rents illustrated both that the price per m² should be £80 and the growth in the rental market over the years. He also considered the rental evidence on other buildings in Europa Court shows the rent passing on the appeal property was at an open market level.

10. Mr Hornby considered the comparable properties cited by the Valuation Officer were not of as much assistance as those in Europa Court as they were located away from the appeal property. He considered that some benefited from better transport links such as the tram. He also was of the opinion that Basketball England may have paid an inflated rent for their offices due to their being located close to the English Institute of Sport offices and the Hallam FM arena.
11. Mr Hornby considered that the rent passing on Unit 6 Europa Court was some 18 months after the Antecedent Valuation Date (AVD) and therefore all it illustrated was the growth of the rental market in the locality.
12. Mr Hornby requested the panel to allow the appeal and to confirm RV £74,000 with effect from 1 April 2017.
13. In answer to questions Mr Hornby stated that when the airport was located in close proximity to the appeal hereditament he would have considered the locality a premium office area but that was not the case at the material date as the airport had closed and had relocated to Doncaster by 1 April 2017.
14. Mr Green advised that the appeal was against the compiled list entry and in relation to a Challenged Decision Notice dated 2 July 2020. The material date was 1 April 2017. He considered that the valuation of the hereditament was not unreasonable having considered the basket of evidence and informed the panel that the burden of proof was upon the appellant to prove that the assessment was incorrect.
15. Mr Green informed the panel that the locality was a mixed commercial locality with office accommodation, light and heavy industrial businesses. The appeal property was a modern constructed building and had been valued at RV £91,500 but the assessment was increased to take account of the raised floors to £92,500.
16. Mr Green stated that the majority of Mr Hornby's rental evidence was taken from rent reviews and not new lettings and therefore less weight should be attached to that evidence. In support of his contention that £102.50 per m² was reasonable he provided details of rents from the wider area. These rents had lease starting dates of between June 2014 and October 2016 and analysed at between £70.63 per m² to £130.93 per m². His evidence included new lettings and one related to Unit 6 Europa Court which he had analysed to of £108.97 per m² from October 2016. He accepted that he did not have the full lease details for the property which was leased in June 2014 and had analysed at £130.93 per m² and therefore he placed minimal weight on that as rental evidence. It was his opinion that a prospective tenant in the market for office accommodation would consider offices located not just in Europa Court but other areas within the S9 area.
17. He considered that from the basket of rental evidence he had illustrated that £102.50 per m² was not unreasonable and asked the panel to confirm the RV £91,500 with effect 1 April 2017 and dismiss the appeal.

18. In answer to a question Mr Green stated that since the decline of the Steel Works and construction of Meadow Hall Shopping Mall the Tinsley area had undergone a transformation and whilst some heavy industrial works still remained, the area was now of mixed commercial use. He stated that although Basketball England were located close to English Institute of Sport offices it was an area where some heavy industries remained, but it also forms part of the overall S9 area. He could not say whether Basketball England had paid a premium to be close to the Institute, but the rent did not seem out of line with his other evidence.

Decision and reasons

19. The panel was aware that the S9 area of Sheffield covered a wide area of Sheffield and that in its opinion the best starting point was that of rents within the immediate locality before consideration of rents further afield. Whilst several the rents passing were following rent reviews they were not restricted by an upward only clause and appeared to show a rental growth in the locality.

20. It noted the rent for Unit 6 which was a new lease from October 2016, some 18 months after the AVD at an analysed rent of £108.97 per m². As this rent was 18 months after the AVD the panel expected the value to be higher than those around the AVD due to the growth in the rental market. The panel considered this rent supported the earlier rents on the other units in Europa Court being market values.

21. The panel then considered the rents passing on the comparable properties cited by the Valuation Officer. The S9 area was a wide area and would therefore have different rental markets within that area dependant on location and amenities such as transport links etc. The panel was informed that many of the comparable properties cited by the Valuation Officer were located in differing localities such as Basketball England being located close to the Tram link and other similar businesses. The panel therefore considered less weight should be placed on these rents due to the differing localities and therefore different rental levels applying.

22. The panel considered there was sufficient rental evidence in Europa Court, which consisted of both new lettings and rent review evidence, to assist it in reaching its decision. The rental evidence illustrated values between £63.58 per m² and £108.97 per m² with rents approximately six months either side of the AVD being at £76.50 per m² and £83.86 per m². The panel considered that rental evidence supported a lower price per m² to be adopted and had been persuaded by the appellant's representative that £80 per m² was not unreasonable.

23. The panel allow the appeal and determine RV £74,000 with effect 1 April 2017.

Order

24. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £74,000 with effect from 1 April 2017 within two weeks of the date of this order. The ratepayer is also entitled to a refund in full of the fee paid in accordance with regulation 13E (1)(a) of the Non Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009.

Date: Wednesday 16 December 2020

Appeal number: CHG100070766