VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; challenge against compiled List entry; land used for storage and premises; accuracy of rateable value; analysis of rent on comparable property; Barnard and Barnard v Walker (VO) [1975] LT RA 383; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed.

RE: Right side land, Adj 300 Greenham Business Park, Greenham, Thatcham RG19 6HN

APPEAL NUMBER: CHG100094029

BETWEEN: Copart UK Ltd — Appellant

and

Mr A Corkish (Valuation Officer) — Respondent

PANEL: Mrs AE Fielder (Senior Member)
Mrs A Taylor

CLERK: Miss F Willson

REMOTE HEARING ON: 30 November 2020

APPEARANCES: Mr D Wagstaffe from Altus Group (on behalf of the Appellant)
Mr J Balogun (on behalf of the Valuation Officer).

Summary of decision

1. Appeal allowed. The current entry in the Rating List is to be reduced to £175,000 rateable value (RV) with effect from 1 April 2017.

Introduction

2. The appeal arises from a challenge made by the appellant's representative on 3 May 2019, in respect of: Right side land, Adj 300 Greenham Business Park, Greenham, Thatcham RG19 6HN (the appeal property). The challenge was in respect of the entry in the rating list at £300,000 RV effective from 1 April 2017. The appellant sought a revised assessment of £175,000 RV with effect from 1 April 2017. After considering the merits of the challenge, the Valuation Officer determined that it was not well founded and a decision notice to this effect was issued on 31 December 2019. The appellant made an appeal to this tribunal against the decision notice which was received on 26 March 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. Mr Wagstaffe 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 Wagstaffe stated that he was instructed under a conditional fee arrangement. He 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 his client's case.

6. The appeal property is a collection of buildings and land situated on the former air base at Greenham Common. The appeal property is a very large area of storage land on the old apron leading from the main hangars to the runway. It is located in a fairly rural area of West Berkshire, south east of Newbury Centre. The land measures 75,000m^2 and the buildings, the value of which is not contested, measures 2,352 m^2.

7. 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 their decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

8. The issue between the parties is the RV of the appeal property.

Evidence and submissions

9. Mr Wagstaffe submitted a bundle of evidence which included details of the appeal property and comparable properties, the issues in dispute and photographs.

10. With reference to his comparable properties and the appeal property he asked the panel to confirm a revised rateable value of £175,000 from 1 April 2017.

11. Mr Balogun referred the panel to the challenge application and decision.

12. In consideration of his comments on the comparable properties admitted in evidence by the appellant, Mr Balogun asked the tribunal to confirm the RV of £300,000 with effect from 1 April 2017.

Decision and reasons

13. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

14. Where rental evidence is available, the weight to be attached should be considered in light of the following six propositions set down in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

- Where the hereditament which is the subject of consideration is actually let, that rent should be taken as the starting basis.

- The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in section 19(6) of the General Rate Act 1967 the more weight should be attached to it. (These statutory requirements now contained in Schedule 6, Para 2 (1) Local Government Finance Act 1988 (as amended by the Rating (Valuation) Act 1999)).

- Where rents of similar properties are available, they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

- Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the valuation officer. In subsequent proceedings on that list therefore they can be properly be referred to as giving an indication of that opinion.

- In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attached to the differing types of evidence depending on the one hand the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

- In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in each circumstance, it would be difficult to reject the evidence of the actual rent.

15. Mr Wagstaffe explained to the panel that the appeal property is quite unusual. The land is 75,000m^2 and storage land of this size is normally found near seaports or airfields unlike the appeal property in rural Berkshire. Within the same scheme only ten assessments of storage land were more than 5,000m^2. The nearest in size was the one next door to the appeal property and that was half its size. It was therefore difficult to find comparable properties in the same location.

16. The appeal property is not rented out and so there is no rent passing on which to assess the appeal property's RV. Mr Wagstaffe referred the panel to the Lands Tribunal case *Barnard and Barnard v Walker*. In that case it was found that the relativities between properties in one list should be the same as in the next list unless there is a reason to change it. He believed that the valuation officer had not presented any evidence of a reason in this case.

17. The 2010 rating list entry for the appeal property agreed between the parties prior to a hearing at the Valuation Tribunal was:

Land	75,000m^2	@£1.17	£87,750
Buildings	2,352m^2	@ £37.50	£88,200
Total			£175,957
Say			£175,000

18. Mr Wagstaffe submitted that with the lack of direct comparable properties the 2010 list entry became more significant. The present entry in the 2017 list included an increase in the rate for the land element of the assessment from £1.17 per m^2 to £2.83 per m^2 which was in his view unreasonable and not supported by the unchanged rate for the buildings.

19. Mr Wagstaffe referred the panel to the fact that there is a need to extend the analysis to other properties to add to the basket of evidence as laid out in *Lotus and Delta*. The next door property which is less than half the size of the appeal property being 30,347.45m^2. The property, Left side adj 300 New Greenham Park, has a new lease commencing on 29 June 2009 at a rent of £120,000 and a lease renewal on 30 June 2012 where the rent remained the same at £120,000.

20. At the time of the lease renewal the landlord would have had the chance to increase the rent if the market supported that but it remained the same. This would suggest that the market was flat at that time. Mr Wagstaffe drew the panels attention to the fact that as there had been no increase in the rent this would support there being no increase in the RV. The RV on this next door property did in fact remain the same in both lists at £116,000.

21. The base rate for land per m^2 in both lists on this property was £5.00. He argued that in the case of the appeal property there should be a quantum allowance as the appeal property was more than double its size. He submitted that a quantum allowance was shown in the base rate agreed on the 2010 list for land as it was agreed at only £1.17 per m^2 instead of £5 per m^2.

22. The panel noted the fact that the property next door to the appeal property did not have a rise in RV between the lists. This was due to the fact that the rent did not increase between 2009 and 2012. The panel was however aware that the AVD for each list was 1 April 2008 and 1 April 2015 so the rents passing were not in line with the AVD's. The base rate per m^2 was higher than that on the appeal property but the size difference would suggest an element of quantum would have to be taken into account.

23. Mr Wagstaffe drew the panel's attention to comparable properties which, although they were not the same type of property, were in the same location as the appeal property and so provided some relativity for the changes between rating lists:

The value of industrial units has fallen:

Address	Effective date (of rent?)	Area (m^2)	Price	RV
300 W & SW New Greenham Park	1/4/10	2,933	£40	£94,000
	1/4/17		£37.50	£88,500
302 New Greenham Park	25/9/14	4,279	£35	£163,000
	1/4/17		£32.50	£153,000
300 NE & NW Greenham Business Park	8/12/14	3,238	£39.54	£123,000
	1/4/17		£37.07	£115,000

The value of a club and premises 1-1B at 188 Greenham Business Park remained unaltered with an RV of £26,750.

The value of storage land has only slightly increased on assessments which were much smaller in size than the appeal property and so there should be a quantum allowance applied to the appeal property:

	Effective Date (of rent?)	Area (m^2)	Price	RV

Land adj 302 New Greenham Park	28/3/13	664	£8.28	£5,500
	1/4/17		£10.00	£6,600
Bldg 241 Yard Greenham Business Park	1/4/15	600	£9.17	£5,500
	1/4/17		£10.00	£6,000

24. Mr Wagstaffe submitted that as there were no other comparable properties in the same location, that the same differential demonstrated in the change between lists for the other types of property should be applied to the appeal property. The evidence of other types of property on the same site was that they either fell in value or stayed the same. The appeal property should, he argued, therefore have no change and the RV for the 2017 list should be £175,000.

25. The panel noted that although all the comparable properties were in the same location as the appeal property they were different types of property. They did show that there was only a small increase or none at all yet the land in the appeal property's RV had risen by 250%.

26. Mr Wagstaffe drew the panel's attention to other properties which were of the same mode and occupancy as the appeal property but in different parts of the country. They also showed no increase between the two lists.

- Copart UK Ltd Full Sutton, East Yorkshire, land used for storage with an area of 93,000m^2 remained at RV £90,000.

- Catfoss Airfield, East Yorkshire, land used for storage with an area of 60,700m^2 remained the same as in the previous list RV £97,000.

- Watnot Disposal, Nottinghamshire, land used for storage with an area of 60,489m^2 remained the same at RV £53,000.

Mr Wagstaffe submitted that these comparable properties in other parts of the country showed that land used for storage had not risen in base rate between the two lists and so the appeal property should not have an increase from £1.17 to £2.93 per m^2.

27. The panel considered that although these properties were in different areas of the country, the appeal property was unique and so it was acceptable to widen the search for comparable properties These properties had the same mode and category of occupation as the appeal property and had not had a rise in base rate between the two lists.

28. Mr Balogun submitted that the comparable properties were either different types of property with a different mode and category of occupation or were from a different part of the country to the appeal property and so had different markets. They could not be relied on as the tone in a list was a tone for a particular type of property in a particular area. He further argued that they should therefore be given little weight.

29. Mr Balogun submitted that Mr Wagstaffe had failed to provide any rental evidence to support the comparable properties he was using. He argued that an RV is based primarily on rental evidence and so these comparable properties should not have any weight put on them without the rental evidence to support them.

30. The panel was aware that properties from other areas of the country did not provide direct evidence. They did provide some assistance, however, as they illustrated trends in value for the particular type of property between the two lists.

31. Mr Balogun argued that the site of the appeal property was not as remote as Mr Wagstaffe had outlined. It was in fact only six miles from the M4 and this could be accessed by the A34. The property is on an industrial business park with other similar properties.

32. He submitted that the property next door was, in his view, the best comparable property. Not only was it on the same site as the appeal property but it also had the same mode and category of occupation being land used for storage. The property next door in the 2017 list had a base rate of £5 per m^2 which was the same as the base rate used on the appeal property. This he submitted supported the £300,000 RV on the appeal property.

33. The panel was aware that in the 2010 list, the property next door had the same adopted rate of £5 per m^2 for the land as in the 2017 RV. The appeal property however had an adopted rate of £1.17 per m^2 in the 2010 list. In order to show consistency between the two properties in the two lists the appeal property would need to have the same adopted rate of £1.17 per m^2 in both lists. The difference in size between the two properties would also require some adjustment to the base rate of £5 per m^2 in order to allow for quantum.

34. Having considered both parties' analysis of the comparable properties, the panel concluded that the basket of evidence provided by Mr Wagstaffe supported a rate of £1.17 per m^2. The panel held that the existing assessment was not fair and reasonable and the RV should be reduced to £175,000 from 1 April 2017.

35. In cases of this nature, it is for the appellant to demonstrate that the RV is unreasonable, and the panel found that in this case the appellant had done so.

36. The appeal is therefore allowed.

Order

37. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £175,000 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 appeal fee paid in accordance with regulation 13E (1)(a) of the Non Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009.

Date: 17 December 2020

Appeal number: CHG100094029