THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Warehouse and Premises; accuracy of rateable value; rental and comparable evidence considered; Allowances; found that weight of evidence support a reduction in the assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Appeal Allowed in Part

RE: South Warehouse, Canada Water Retail Park, South Quays Road, London SE16 2XU

APPEAL NUMBER: CHG100099840

BETWEEN:	Venue Lab Ltd	Appellant
	and	
	David Jackson (Valuation Officer)	Respondent

PANEL: Ms N Talbot-Hadley (Senior Member)
Ms N Chesterman

CLERK: Mr L Bertie

REMOTE HEARING ON: 12 November 2020

APPEARANCES: Mr E Jones of CBRE Ltd on behalf of the Appellant.
Mr C Cates for the Valuation Officer.

Summary of decision

1. Appeal Allowed in Part. The assessment was reduced to South Warehouse, Canada Water Retail Park, South Quays Road, London SE16 2XU £214,000 RV from 9 November 2018.

Introduction

2. The appeal before the panel was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was £412,500 from 1 April 2017, with a description of Warehouse and Premises. This was a compiled list appeal, so the material day was also 1 April 2017. At the challenge stage, the Valuation Office Agency (VOA) altered the

Rating List to £238,000 with effect from 9 November 2018 . The appeal dated 13 March 2020 was received against the Valuation Officer's (VO) final Decision Notice of 23 May 2019 . The VO's decision was to treat the appellant's proposal as not well founded and the entry of £238,000 from 9 November 2018 was deemed as correct. The appellant sought a rateable value of £75,000 with effect from 9 November 2018.

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 Jones appeared on behalf of the Appellant as both surveyor-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 Jones's declaration of truth included a statement that he was instructed on a fixed fee basis. 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 the evidence supported the client's case.

6. The Valuation Officer's representative, Mr Cates, advised the panel that he appeared as an advocate for the case but was an expert on general valuation matters.

7. The panel 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

8. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the panel.

9. The subject property comprises a former ground floor, retail warehouse unit, with ancillary accommodation . The subject was built in 1999 as a retail warehouse but is currently being used as an events venue. It is situated on a site surrounded by mixed residential and retail units. The area of the subject property is 3,410m^2 with a base rate of £70 per m^2.

Issue

10. The issue between the parties concerned the RV of the appeal property and specifically, the £m2 rate that should apply. The Appellant's Representative sought a reduction to £190,000 with effect 9 November 2018 based on a £m2 of £56. Mr Cates for the VO sought to defend the existing RV of £238,000 which was based on £70m2 with effect 9 November 2018.

Evidence and Submissions

11. It was the Appellant's contention in his challenge, that the appeal property was a former Decathlon retail warehouse which had changed use via planning permission from (A1) to (D2) an events/entertainments venue in November 2018 and only had temporary toilets and wash facilities following partial demolition of 15% of the building. It was owned by the local authority and let to the appellant on a short term lease from November 2018 until February 2020. The property is subject to a demolition order (granted in 2013) which will take place in February 2020 upon the expiry of the 15 months lease, although it was clarified that because of Covid 19, this had not happened.

12. The Appellant's representative argued originally that because of the change of use, short lease, 15% demolition of part of the site, prospective demolition of the whole building and the rent passing indicated that the adopted rate of £105 per m^2 was excessive and the assessment should be reduced to £75,000 RV. However, following consideration of the VO comparable, the Appellant's representative had revised his figure to a lower base rate of £70m2 less 20% for lack of services; ie. £56 m2 and contended for a reduced figure of£190,000 RV.

13. The Valuation Officer considered that notwithstanding that the Appellant's representative had only advised him of his revised approach at the hearing, as the rental evidence was unreliable, a similar events/entertainment property in the locality supported a reduced underlying base rate of £70 m2 for the appeal property taking account of its later build with no allowances for lack of services. The Valuation Officer sought a dismissal of the appeal.

Decision and reasons

14. 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.

15. In line with the decision in *Lotus and Delta v Culverwell (VO) [1976] RA 141* , the panel noted that the rent on the appeal property should be taken as a starting point in ascertaining the rental value of the appeal property. This rent was based on a 15 month lease from 10 November 2018, the first 12 months' rent free, then £7,292 for the remaining 3 months. With conditions that the tenant has to make the venue available 12 times a year for community events with no hire charges. The panel considered that little weight should be attributed to this rent as being agreed 3 years and 7 months post AVD with conditions .

16. Consequently, in accordance with Lotus and Delta v Culverwell (VO) [1976] RA 141, *'the rents or assessments of comparable properties in the locality should be given weight'.* The panel noted the best and only comparable property in the locality of the appeal property was agreed by the parties as Great Halls , Tower Bridge Business Complex which was a similar use events property, approximately one mile away which measured 3808 m^2 but had been built in 1950s and had not been refurbished. It had a basic price of £67.50. This evidence was, in the panel's opinion, of assistance in ascertaining the base rate £per m^2 applicable for the subject property.

17. The panel noted that although there was initially disagreement between the parties regarding the changed use of the assessment, the main issue between the parties was now what effect the lack of services would have on any prospective tenant's rental bid on a reduced assessment of £238,000. The Appellant's representative contended that although there were a number of permanent toilets, the removal of a significant number meant that temporary toilets, generator, lighting and heating were installed as and when they were needed, which should result in a 20% allowance to be adopted to the base rate of £70 m2 resulting in an assessment of £190,000 RV.

18. The Valuation Officer's representative considered that in terms of the temporary services, it would not take much and was not unusual to put in these temporary services as and when needed when events were held and would have to be installed to the individual client's specification every time an event took place at the appeal property, which could potentially hold a maximum of 1500 persons. Consequently, he contended that as a prospective tenant would not make a lower rental bid than that of £70 m^2 or £238,000 RV, therefore no allowance for lack of services was warranted.

19. The panel considered that the £m2 figure of £70 did not appear excessive taking account of the more modern build in 1999 of the appeal property compared to the only comparable property of Great Halls , Tower Bridge Business Complex, Clements Road, Bermondsey SE16 4DG which had a £m2 of £67.50. This property was similar in size to the appeal property but was built in 1950's.The panel found some substance in the argument of the appellant's representative that the lack of permanent services at the appeal property, which would encompass the appellant having to hire/make arrangement for temporary facilities to be installed, would have resulted in a lower bid than that contended by the Valuation Officer's representative, However, the panel took the view that this lower bid would, be reflected in a 10% allowance and not 20% as contended for by the appellant's representative.

20. Consequently, the Panel was convinced that a lower rateable value than that contended for by the Valuation Officer's representative was appropriate and, the appeal was allowed in part in accordance with the Order below .

Order

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 amend the entry in the 2017 Rating List for the appeal property to £214,000 rateable value effective from 9 November 2018.

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

Date: December 2020

Appeal number: CHG100099840

Floor	Description	Area m/2	Price per m2 unit	£
Ground	Gnd Floor Sales	3,168	£70.00	221760
Ground	Warehouse	242	£70.00	16940
Total		3,410		238700
Less Allowance for Lack of services				23870
				214830
				£214,000