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 did not support a reduction in the assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed.

RE: 67 Worthing Road, Sheffield S9 3JA

APPEAL NUMBER: CHG100102186

BETWEEN:	K Wragg T/A City Wholesale and	Appellant
	David Jackson (Valuation Officer)	Respondent

PANEL: Mr F J Rogers (Senior Member)

CLERK: Mr L Bertie

REMOTE HEARING ON: 2 December 2020

APPEARANCES: Ms E Saunders of Altus Ltd on behalf of the Appellant.
Ms B Anderson the Valuation Officer.

Summary of decision

1. Appeal dismissed.

Introduction

2. The appeal before me was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was £33,500 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 £30,250 from 1 April 2017 and then £29,250 to take account of a 10% allowance for poor access. The appeal dated 10 September 2020 was received against the Valuation Officer's (VO) final Decision Notice of 20 August 2020. The VO's decision was to treat the appellant's proposal as not well founded and

the revised entry of £29,250 from 1 April 2017 was deemed as correct. The appellant sought a rateable value of £27,000 from 1 April 2017.

3. The Tribunal's Business Arrangements allow for a Chairman to sit alone where a member is unavailable . Consequently, I heard this appeal without a member.

4. 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.

5. 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.

6. Ms Saunders 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). Ms Saunder's declaration of truth included a statement that she was instructed on a contingency fee basis. She declared that she understood and accepted that her duty was to the Tribunal in giving her evidence and she would comply with this as well as the requirements of her professional body, regardless of whether the evidence supported the client's case.

7. The Valuation Officer's representative, Ms Anderson, advised me that she appeared as an advocate for the case but was an expert on general valuation matters.

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

9. 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 me.

10. The subject property which was built in 2014 and comprises a ground and lower ground floor warehouse unit. It is situated on an industrial estate with other industrial properties in Sheffield. The area of the subject property is 776.90 m^2 with a base rate of £48.50.

Issue

11. 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 £27,250 with

effect 1 April 2017 based on a £m2 of £45. Ms Anderson for the VO sought to defend the existing RV of £29,250 which was based on £48.50m2.

Evidence and Submissions

12. It was the contention of the Appellant's representative in her challenge, that the £m2 of £48.50 was excessive. She argued that based on comparable rents and comparable properties in the locality, the assessment should be reduced to a lower base rate of £43.50 m2.

13. The Valuation Officer considered that although there had been an original increase in the assessment which had been challenged , rental evidence of similar properties in the locality now supported an underlying base rate of £48.50 m2 for the appeal property which excluded the 10% allowance for access. 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* , I noted that the appeal property was owned freehold and therefore there was no rent passing on the appeal property in order to ascertain the rateable value. Consequently, in accordance with Lotus and Delta v Culverwell (VO) [1976] RA 141, *'the rents of comparable properties in the locality should be given weight'.* The basket of evidence, which included the rents on comparable properties in the locality, was in his opinion, indicative that the base rate of £48.50 per m^2 for the subject property, was not excessive.

16. I had been provided with the rental details of a number of comparable industrial properties in the locality of the appeal property from the Valuation Officer's representative to support the current rate of £48.50 per m^2 for the subject property. I noted the comparable properties on Unit 3 Kanua Business Park Acres Hill Lane, Sheffield S9 4LR, which was 439.04 m2 in size built in 1999 and had a passing rent of £20,000 effective 1 July 2014. The rent for this property analysed at £50.98 m2 (£49.56 Appellant's Representative); Unit 4 Vantage Close, Sheffield, S9 1BG, which was 407.97 m2 in size built in 2015 and had a passing rent of £20,588 effective 1 August 2015. The rent for this property analysed at £49.70 m2 (£49.56 Appellant's Representative); 3A Parkway Avenue , Sheffield S9 4WA which was 999.35 m2 in size built in 1975 and had a passing rent of £55,000 effective 7 January 2014 and reviewed at same terms on 12 June 2015. The rent for this property analysed at £56.84 m2 (£49.56 Appellant's Representative) . These properties had adopted £m2 between £47.00-£48.50 . Whilst, Unit 4 Meadowhall Trade Centre , 235 Meadowhall Road, Sheffield which was 689.54 m2 in size built in 1975 and had a passing rent of 28,113 effective 1 March 2014 with the landlord responsible for insurance. The rent for this property analysed at £50.41 m2 (£43.69 Appellant's Representative). This property had an adopted £m2 of £36.00.

17. I had also been provided with the rental details of a number of comparable industrial properties in the locality of the appeal property from the Appellant's representative to support the proposed rate of £43.50 per m^2 for the subject property. These comparable properties included Unit 3 Parkway Rise, Sheffield S9 4WQ, which had a rent of £20,600 effective from 31 October 2013. which was 521.31 m2 in size built in 2008. The rent for this property analysed at £43.70 m2 (£30.77 Valuation Officer's Representative) I noted that the rental information indicated that the landlord was responsible for all repairs and insurance and therefore as the rent was not on FRI terms, I gave little weight to this evidence ; Unit 2 Amberley Court, Bold Street, Sheffield S9 2LQ which was 504.23 m2 in size built in 1990 and had a passing rent of £22,000 effective 16 July 2015. The rent for this property analysed at £35.69 m2 with an adopted rate of £43.00 m2. (£35.69 Valuation Officer's Representative) I gave less weight to this comparable due to its age; Unit 1 Brooklands Business Centre, Leigh Street, Sheffield, S9 2PR which was 509.90 m2 in size built in 1977 and had a passing rent of £17,500 effective 1 September 2014. The rent for this property analysed at £33.63 m2 with an adopted rate of 37.26 m2 (£33.63 Valuation Officer's Representative). I gave less weight to this comparable evidence due to its age; Unit 2 Acres Hill Lane, Sheffield, S9 4LR, which was 793.52 m2 in size built in 2002 and had a passing rent of £38000 effective 6 January 2014. The rent for this property analysed at £43.41 m2 with an adopted rate of £43.50m2 .I gave less weight to this comparable evidence due to its age; 7 Brompton Road, Sheffield, S9 2PA which was 675.59 m2 in size built in 2001 and had a passing rent of £30,000 effective 1 March 2016. The rent for this property analysed at £40.07 m2 with an adopted rate of £50.00 m2. (£35.69 Valuation Officer's Representative) I gave little weight to this comparable due to the remoteness of the lease from AVD although it was in the same valuation scheme as the appeal property and Unit 2, Tyler Way , Tyler Street, Sheffield, S9 1DT which was 820.70 m2 in size built in 1997 and had a passing rent of £25,000 effective 1 August 2015. The rent for this property analysed at £44.07 m2 with an adopted rate of £48.50 m2. (£49.12 Valuation Officer's Representative). I gave little weight to this comparable due to the lease being between connected parties; Unit 9 Vantage Close, Sheffield S9 1BG effective 30 March 2017. The rent for this property analysed at £45.34 m2 with an adopted rate of £48.50 m2. (£46.29 Valuation Officer's Representative). I gave less weight to this comparable due to the remoteness of the lease from the AVD.

18. Furthermore, comparable assessment evidence was submitted on Unit 3B Industrial Est. Greasboro Road, Sheffield S9 1TN which had a rent of £17,500 effective from 6 March 2013. which was 556.08 m2 in size built in 1974 .The rent for this property analysed at £ m2 £28.28 with an adopted rate of £37.00 I gave little weight to this comparable due to the remoteness of the lease from AVD and the property's age.

19. In noting the substantial basket of rental and assessment evidence submitted to me, there were varying differences in the analysis of the rents from the parties. However, I gave more weight to the Valuation Officer's rental analysis of the appeal property and assessments of comparable properties in the locality of the appeal property, which supported a basic rate of £48.50 m2 . The totality of comparable properties indicated properties were generally built earlier than the appeal property but the rental levels analysed closer to the AVD date of 1 April 2015, better reflected the levels that a more modern property would attract ie Vantage Close,Sheffield S9 1BG. Moreover, the allowance of 10% for poor access applied to this rate reflected this disadvantage over the comparable properties, therefore I did not find the current assessment to be excessive.

20. I was mindful that the onus of proof is on the appellant to demonstrate that a reduction was warranted. In this instance, the appellant's representative had failed to convince me that a

lower Rateable Value than that contended for by the Valuation Officer's representative was appropriate.

21. The appeal was therefore dismissed.

Date: 24 December 2020

Appeal number: CHG100102186