THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Workshop and premises; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

Re: Intocast UK LTD, Chesterton Road, Eastwood Trading Estate, Rotherham, South Yorkshire S65 1ST

APPEAL NUMBER: CHG100105215

BETWEEN: Intocast UK Appellant

and

Mrs J Moore (Valuation Officer) Respondent

PANEL: Mrs AE Fielder (Senior Member)
Mrs LM Stuart

CLERK: Miss K Hendry IRRV (Tech)

REMOTE HEARING on Monday 8 March 2021

APPEARANCES: Ms E Saunders of Altus Group for the appellant
Ms R Anderson for the Valuation Officer

Summary of decision

1. The appeal was dismissed and the appeal property's assessment remained unaltered at £47,000 Rateable Value (RV), with effect from 1 September 2017.

Introduction

2. This appeal has been brought in respect of the following: Intocast UK LTD, Chesterton Road, Eastwood Trading Estate, Rotherham, South Yorkshire S65 1ST which was entered in the 2017 rating list as "workshop and premises" at rateable value £47,000 effective from 1 September 2017.

3. The appellant's challenge proposal to the Valuation Officer was made on 18 June 2019. The Valuation Officer issued a challenge decision on 23 June 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 September 2020 and made on the grounds that the Rateable Value is excessive.

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 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 Saunders’ declaration of truth included a statement that she was not instructed under any conditional fee arrangement. 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 or not the evidence supported the client’s case.

7. The appeal property is valued in the 2017 rating list as a workshop and premises at £47,000 rateable value effective from 1 September 2017, based on an unadjusted price of £23.50/m^2. The appeal property was built between 1955 and 1964. It is an industrial property with a basic quality steel framed profile metal roof. Some areas have brick built walls and others are basic quality metal clad.

8. 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.

Issue

9. The issue between the parties concerned the rateable value of the appeal property and, specifically, the rate per m^2 that should apply. Ms Saunders, for the appellant, sought a reduction to £36,000 RV based on an unadjusted rate of £18/m^2. Ms Anderson for the VO sought for the rateable value of £47,000, to be confirmed by the panel which was based on an unadjusted rate of £23.50/m^2.

Evidence and submissions

10. The appellant’s representative, Ms Saunders, had provided the Tribunal with both parties' submissions.

11. Ms Saunders was seeking a revised rateable value of £36,000 and relied on the following evidence:

a) The rating assessment on the appeal property is not proportionate with the rental evidence on properties in the locality and comparable properties in the locality. The appeal property is currently held on a leasehold basis.

b) The headline rent is £30,000 with a six month rent free period. This analyses to £26,521, effective from September 2017. This results in a revised unadjusted rate of £13.80/m^2. The rent should be the starting point as per the case of *Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141* but it is necessary to also look at comparable properties to determine an appropriate rateable value. The property did let after the antecedent valuation date of 1 April 2015, but the rent is based on open market value and is a good indication of the rental value for the property. The rent is substantially lower than the current rateable value applied to the property, which analysed to £26,521. It is important to consider this rent as it is very unlikely that the value of the property would have declined so drastically between 1 April 2015 and the lease commencement in September 2017.

c) Units B1-B3, Northfield Industrial Estate, Lincoln Street, Rotherham, South Yorkshire S60 1RP was reduced at challenge from £29.00/m^2 to £24.00/m^2. It is more modern than the appeal property having being built in 1977. The property is comparable to the appeal property in size and location being in the same area of Rotherham. It is superior in quality due to its age and has a modern steel frame construction. Yet the appeal property is being valued at £23.50/m^2. The appeal property should therefore be reduced to reflect the difference in quality. The previous difference in the price per square metre was to reflect the difference in age, and this should be maintained.

d) There are also other assessments in the list in respect of properties that were built between 1955 to 1965 in the locality. Scheme reference 380408 values properties built between 1955 and 1964. The properties are comparable in age and location.

   I. Balmforth Transport, Northfield Road, Rotherham, S60 1RR is just off the A630, is situated within an industrial location same as the appeal property. The appeal property is larger than Balmforth Transport. This property is valued at £21.00/m^2.

   II. The Glassworks, Greaseborough Road, Rotherham, S60 1TZ is 2 miles away from the appeal property and is comparable in age and more comparable in size. This property is a 1955 to 1965 built property. It has been valued at £18.00/m^2.

e) When considering the rental evidence, reference was made during the challenge to more modern units in the locality due to a lack of comparable rental evidence of properties of a similar age. The Valuation Officer also referred to more modern units in their initial response. The best evidence is the evidence which is most comparable in age and there should be a difference in value between the appeal property and more modern premises built after 1965.

f) Units 15-17 Shakespeare Road which was referred to by the Valuation Officer, was built between 1965 and 1980. It is more modern. It had been let in January 2015 at £24/m^2. The assessment placed on Units B1-B3 Northfield Industrial Estate had been reduced to £24/m^2 in line with that rent, this value applies to more modern units.

g) The Big Apple Play City, Old Sheffield Road, Rotherham, S60 1DE is located just off the A630, it is around two miles away from the appeal property. This property let in October 2014, six months prior to AVD and is valued on a scheme of properties built between 1919 and 1954. The property is subject to a stepped rent over a period of five years. It analyses at just under £17.00/m^2 verse the unadjusted rate of £19.00/m^2.

h) The rest of the comparable properties mentioned in the challenge discussions by both Altus and the Valuation Officer were built after 1980 and less weight should be attached to this evidence. It is reasonable to expect that an older building should be valued at a lower rate than a more modern building.

12. To support the rateable value in the 2017 list, the Valuation Officer relied upon the following evidence:

a) The appeal property rent was set post AVD by two years five months and therefore should be given little weight when determining the correct level of value to be applied.

b) The representative also referred to three other pieces of comparable rental evidence in their challenge submission from Unit B Brookfields Park, S63 5DJ (rent from February 2012) and Unit 7 & 8 Houndhill Park, Bolton, Rotherham S63 7LG (rent from May 2013) which were agreed a little before AVD but should carry less weight as the units are significantly larger than the appeal property and therefore not comparable. Unit 6 Houndhill Park, Bolton Road, Rotherham, S63 7LG (rent from July 2014) These properties are not considered to be comparable as they are located some distance away from the appeal property at Wath Upon Dearne, which is postcode area S63, this is six miles away from the appeal property and outside of Rotherham itself.

c) There is a settlement on Units B1-B3 Northfield Industrial which is a property 2455 m^2 total area which had been built in 1977 and was valued at £24/m^2. The appeal property is slightly older but it is also smaller, therefore the £23.50/m^2 adopted still seems reasonable. If this property had been at the same size of the appeal property, it would have been valued at £25.00/m^2.

d) The rents of six properties were provided by the Valuation Officer in a rental summary which are in close proximity to the appeal property in a similar industrial estate type location. The majority of the evidence is 1980's build onwards the unadjusted rate has been reflected to show this as they all have a higher price per meter than the appeal property.

e) Units 15, 16 & 17 Shakespeare Road, Rotherham, S65 1QY has a rateable of £53,500. It is a lease renewal which was agreed in January 2015. It was agreed at a slightly higher rent of £55,620 for a six year term. It analyses at £24.80/m^2. It is similar in terms of age and is slightly larger in size. The rate applied to the subject property in light of this rent is reasonable. Larger weight should be attached to this rent given that it was agreed three months prior to the AVD and the unit is in the same location as the appeal property. It is both of similar age and size.

f) Comparable properties within the immediate locality and in a similar type of industrial location are more relevant than the rental evidence put forward than the appellant's representative as they are situated six miles away in Wath Upon Dearne and therefore reflects rental values in that locality. They are also not comparable to the appeal property in terms of size and age.

Decision and reasons

13. After due consideration of all of the evidence submitted by the parties, the panel determined that the appeal should be dismissed.

14. In deciding this appeal the panel 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

15. 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 Rateable Value. 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 September 2017.

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

17. The panel found authoritative guidance in the Lands Tribunal's judgment in *Lotus and Delta Ltd*, 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 rateable value. The more closely that rent matched the rating hypothesis, then the more weight should be attached to it.

18. With this in mind, the panel was informed that the rent on the appeal property came into effect from 1 September 2017. The panel held that the rent carried very little weight as it was over two years after the AVD of 1 April 2015.

19. Having regard to the rental assessment evidence provided by the parties, the panel applied greater weight to the rental evidence of Units 15, 16 & 17 Shakespeare Road, Rotherham, S65 1QY. This rent was effective from 1 January 2015 and analysed to £24.13/m^2. The unadjusted rate for this property was £26.00/m^2 in comparison to the appeal property which

was £23.50/m^2. This property is less than one mile away from the appeal property, it is the same age and very similar in size and supports the adopted rate of £23.50/m^2 for the appeal property.

20. The panel had regard to the agreed assessment of Units B1-B3, Northfield Industrial Estate, Lincoln Street, Rotherham which had been reduced from £29.00/m^2 to £24.00/m^2. However, as this was significantly larger than the appeal property, it was not considered to be a good comparable.

21. The panel also place little weight on the two other pieces of comparable rental evidence of Unit B Brookfields Park, S63 5DJ (rent from February 2012) and Unit 7 & 8 Houndhill Park, Bolton, Rotherham S63 7LG (rent from May 2013) as the rent was agreed sometime before AVD in 2012 and 2013. They were also significantly larger than the appeal property and considered not to be comparable.

22. The panel had regard to the scheme reference provided by Ms Saunders in relation to the comparable properties of an older age valued at £18.00/m^2 and concluded that the scheme is for properties not located within an industrial estate. The appeal property is situated within an industrial estate location to the East of Rotherham so is easily assessable and better located. The other properties referred to by Ms Saunders are more central to Rotherham, and some of the areas are more mixed use. Lower values have been adopted as they are not on an industrial estate.

23. In light of all the evidence, the panel was satisfied that the current assessment of the appeal property was not unreasonable. Accordingly, the appeal fails and must be dismissed.

Date: 22 March 2021

Appeal number: CHG100105215