THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; factory and premises; price per m^2 in dispute; rental evidence; comparable assessments; appeal dismissed.

RE: Electro Motion UK Export Ltd, Canal Lane, Hose, Melton Mowbray, Leicestershire, LE14 4JF

APPEAL NUMBER:	CHG100114759	
BETWEEN:	Electro Motion	Appellant
	and	
	Ms J Moore, Valuation Officer	Respondent
PANEL:	Mr A Ramsay (Senior Member), Mr S Hooberman	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Friday 11 June 2021	
APPEARANCES:	Mr R Howes from Bird and Howes LLP, representing the appellant	
	Mr M Allis representing the Valuation Officer	

Summary of decision

1 Appeal dismissed. The panel confirmed the Rateable Value (RV) of the appeal property at £90,000 with effect from 29 November 2018.

Introduction

2 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.

3 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.

4 This is a 2017 rating list appeal. Electro Motion UK Export Ltd, Canal Lane, Hose, Melton Mowbray, Leicestershire, LE14 4JF, (the ‘appeal property’) had been entered in the 2017 rating list as ‘factory and premises’ at a RV of £118,000 with effect from 1 April 2017. The assessment was subsequently altered by the Valuation Officer to £137,000 RV with effect from 29 November 2018.

5 The challenge proposal was submitted by Bird and Howes LLP on behalf of Electro Motion and was received by the Valuation Officer on 26 July 2019. It had been made on the grounds that a change made by the Valuation Officer on or after 1 April 2017 was wrong. A revised RV of £56,000 was proposed with effect from 29 November 2018.

6 A challenge case decision notice was issued on 18 November 2020. This stated that the Valuation Officer considered that the rating list entry was unreasonable based on the evidence and information available, but disagreed with the entry proposed in the challenge submission. An initial revised valuation of £95,000 RV was proposed based upon £27 per m^2 basic rate less 20% for access and 15% for planning restrictions. Following further exchanges, the Valuation Officer proposed an alteration of the basic rate to £25.50 per m^2 to reflect quantum, which resulted in a revised valuation of £90,000 RV.

7 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appellant’s representative proposed a RV of £56,000 with effect from 29 November 2018. The appeal was received by the Tribunal on 15 March 2021.

8 Mr Howes 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), his declaration of truth included a statement that he was instructed on a contingency 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 or not the evidence supported the client’s case.

9 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.

10 The appeal hereditament is an industrial property built between 1965-1969, situated on the eastern edge of Hose village. It consists of a two bay portal warehouse clad in asbestos cement sheeting, with a two storey brick built office to the front, and additional office accommodation to the side. The warehouse has an eaves height of 6.95 metres and the total area of the property is 4,879.95 m^2. The property has been placed into valuation scheme 351285 which is applicable to industrial properties in Melton Borough Council, usually built between 1965 to 1970, located at John O'Gaunt and in other rural locations. The value ranges from £24 to £55 per m^2.

11 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 it being overlooked by the panel.

Issue

12 The remaining issue in dispute concerned the price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

13 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice, rental evidence and assessment summaries, and appellant's challenge submission.

14 Mr Howes submitted that the Valuation Officer's adopted price of £25.50 per m^2 did not fairly reflect quantum, and he disputed the relevance of the rental and assessment evidence provided. With reference to his comparable assessments, Mr Howes contended for a basic price of £15 per m^2, and he asked the panel to determine a revised RV of £56,000 with effect from 29 November 2018.

15 On behalf of the Valuation Officer, Mr Allis contended that the basic price of £25.50 per m^2 was supported by his rental and assessment evidence. He referred to sales particulars which demonstrated that the market value of the appeal property was not insignificant at £1.5 million. Mr Howes' comparable assessment evidence was not considered to be truly comparable, as the properties appeared to be either converted agricultural buildings and/or of vastly inferior construction.

16 Mr Allis requested that the panel dismiss the appeal and confirm the RV of £90,000 with effect from 29 November 2018.

Decision and reasons

17 In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) The rateable value of a non-domestic hereditament none of which consists of domestic property and none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—
>
> (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
>
> (b) 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;
>
> (c) the third assumption is that the tenant undertakes to pay all 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.

18 In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April, 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

19 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 29 November 2018, the date the list was altered.

20 The appeal property is held on a freehold basis and so there is no passing rent.

21 In support of his adopted basic price of £15 per m^2, Mr Howes referred to the following comparable properties:

Address	Size m^2	Age	Workshop £/m^2
E H Hutton, Buckminster Road, Coston, Melton Mowbray, LE14 2RP	2,039	1960s	Unadjusted £28 Adopted from £20.90 - £26.60
Wolds Farm, Six Hills Road, Ragdale, Melton, LE14 3PP	1,809	1970s	Unadjusted £30 Adopted £22.45
Acre Hill Farm, Broughton Lane, Long Clawson, Melton Mowbray, LE14 4NB	2,802	1970s	Unadjusted £29 Adopted £21.77
Units 1-2 Chris Allsop Industrial Park, Coach Gap Lane, Langar, Nottingham, NG13 9HP	4,651	1960s	Unadjusted £20 Adopted £12.80 to £14.96

22 Mr Howes cited Units 1-2 Chris Allsop Industrial Park as the most comparable property in terms of geographical proximity, size and age of construction. Consideration of that property had led to his proposed unadjusted price of £15 per m^2 for the appeal property.

23 Mr Allis submitted that Units 1-2 Chris Allsop Industrial Park was a very basic property, with no wall or roof insulation, heating or services. It was an ex RAF base which had since burnt down.

24 While Mr Howes conceded that this was a basic unit, he argued that its location was superior to the appeal property.

25 Both parties agreed that it was a very basic property, which demonstrated to the panel why the unadjusted and adopted prices were low in comparison to the other properties. While it was the closest in size, it was not in the same valuation scheme, and there was some debate about the age of the property. Mr Allis was of the opinion that it was built between 1940 and 1954, whereas Mr Howes believed it was built in the 1960s. For the reasons set out above, the panel was not persuaded that Units 1-2 Chris Allsop Industrial Park supported an unadjusted rate of £15 per m^2 for the appeal property.

26 With regards to Mr Howes' remaining comparable properties, the panel noted that their unadjusted prices were all in excess of the appeal property's unadjusted price of £25.50 per m^2. The relevance of Wolds Farm and Acre Hill Farm as agricultural buildings was questioned by Mr Allis, which led the panel to consider that the most relevant of Mr Howes' comparable properties was E H Hutton, Buckminster Road. This was in the same valuation scheme as the appeal property, and it was the next largest, albeit it was half the size. It was valued at an unadjusted price of £28 per m^2; this, Mr Allis contended, illustrated that he had fairly reflected quantum for the appeal property in his unadjusted price of £25.50 per m^2.

27 The panel then turned to the rental and assessment evidence presented by Mr Allis in support of his revised unadjusted price of £25.50 per m^2.

28 Four rental transactions were scheduled in respect of properties at Old Dalby Business Park, Station Road, Old Dalby, Melton Mowbray LE14 3NU, and one for a unit at Crown Business Park, Station Road. Analysis of the rents ranged from £22.99 to £39.90 per m^2 for properties between 1,515.1m^2 and 12,655.71 m^2.

29 Mr Howes submitted that Old Dalby Business Park is a well-established industrial estate, unlike the appeal property which is in a remote rural location.

30 The panel noted that four of the properties dated from 1940-1954, and one from 1988. As such, they were not directly comparable with the appeal property, which was valued in a scheme comprising properties built between 1965 to 1970.

31 In further support of his basic price of £25.50 per m^2, Mr Allis provided a schedule of comparable assessments which ranged in size from 2,556.82 m^2 to 17,781.14 m^2. Mr Howes questioned the relevance of Long Clawson Dairy, a food processing centre in a different mode and category of occupation. In response, Mr Allis confirmed that rental evidence for food processing centres was derived from industrial properties.

32 The panel noted a variety of ages and therefore concentrated on those properties (or parts of properties) which were also built between 1965 and 1970:

Address	Size m^2	Unadjusted value £/m^2	Adopted Value £/m^2
Building 33 Meadow Park Industrial Estate, Essendine, Stamford, Lincs PE9 4LT	2,997.70	£27.00	£26.33
Long Clawson Dairy Ltd, Normanton Lane, Nottingham, NG13 0EL	3,643.78	£27.00	£27.00
Checkland Kindleysides Incl Units 12-13 Syston Road, Leicester LE7 4UZ	4,883.71	£27.00	£27.00
22 Bakewell Road, Loughborough, LE11 5QY	4,774.10	£28.00	£28.00
Units 12/13 & 17/18 Charnwood Edge, Syston Road, LE7 4UZ	4,997.47	£27.00	£27.00
Building 33 Meadow Park Industrial Estate, Stamford, PE9 4LT	5,979.63	£24.00	£23.40
Hawker Business Park, Melton Road, Loughborough, LE12 5TQ	6,562.26	£24.00	£20.48

Eaton Cooper Bussman, Melton Road, Loughborough, LE12 5TH (Warehouse)	6,885.77	£24.00	£20.48
Eaton Cooper Bussman, Melton Road, Loughborough, LE12 5TH (Factory)	11,881.66	£21.00	£19.00

33 The panel attached most weight to the values adopted in respect of properties built around the same time as the appeal property. The unadjusted values scheduled above supported Mr Allis' contention that properties between 5,000 and 10,000 m^2 were valued at £24 per m^2, whereas properties less than 5,000 m^2 were valued at £28 per m^2.

34 The appeal property was less than 5,000 m^2 and therefore the panel held that a price below £24 per m^2 was inconsistent with relevant comparable properties. It was also noted by the panel that the minimum price per m^2 for the valuation scheme was £24 per m^2. Three properties similar in size had adopted values of £27 and £28 per m^2, and therefore the panel decided that at £25.50 per m^2, quantum had been fairly reflected by the Valuation Officer.

35 In arriving at the decision that an unadjusted price of £25.50 per m^2 was not unreasonable, the panel also took into account the levels of value adopted for previous Rating Lists, as set out in the challenge decision notice:

- 1995 RV £102,000 basic rate £25.45 per m^2 - agreed with Snow & Astill
- 2000 RV £102,000 basic rate £23.25 per m^2 - withdrawn by Snow & Astill
- 2005 RV £118,000 basic rate £27.00 per m^2 - dismissed by Valuation Tribunal
- 2010 RV £118,000 basic rate £27.00 per m^2 - withdrawn by Ruddle Merz

36 In conclusion, the panel determined that the appellant's representative had failed to demonstrate that the valuation of the appeal property was unreasonable. The valuation of the appeal property at £90,000 RV with effect from 29 November was therefore confirmed by the panel and the appeal dismissed.

Date: 7 July 2021

Appeal Number: CHG100114759