THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list; warehouse and premises; rental and assessment evidence demonstrated that the appeal property's assessment was unreasonable; appeal allowed in part.

RE: Transit (Medway) Limited, Crown Wharf, Rochester, Kent ME2 4EP

APPEAL NO: CHG100131004

BETWEEN:	Scotline Terminal (Transit)	Appellant
	and	
	Ms D Bunyan (Valuation Officer)	Respondent

PANEL: Mr M J Heslop-Mullens (Senior Member)
Mrs F E R Duggan

CLERK: Mrs A Keohane

HEARING: Remote Hearing No. 2 – 1 September 2022

APPEARANCES: Mr J Cheeseman of Altus Group representing the Appellant, acting as both advocate and expert witness
Mr M Williams representing the Valuation Officer, acting as both advocate and expert witness

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Summary of decision

1. Appeal allowed in part. The appeal property's assessment was reduced to £508,000 rateable value (RV) with effect from 12 April 2017.

Introduction

2. This appeal is a 2017 rating list appeal brought in respect of Transit (Medway) Limited, Crown Wharf, Rochester, Kent ME2 4EP (the 'appeal property'), which was entered into the 2017 rating list as warehouse and premises at £640,000 RV with effect from 12 April 2017.

3. Altus Group, on behalf of the Appellant, submitted a Challenge proposal that was received by the Valuation Officer on 3 October 2019. The proposal sought a reduction in the appeal property's assessment to £470,000 RV with effect from 12 April 2017.

4. After a review of the evidence and available information, the Valuation Officer revised the assessment to £595,000 RV with effect from 12 April 2017 and issued a Challenge

Decision Notice to that effect on 1 April 2021. As the assessment had not been altered in the manner sought in the proposal, an appeal was made to the Valuation Tribunal on 15 July 2021, on the grounds that the valuation for the hereditament was not reasonable.

5. The appeal property is a large industrial site fronting the River Medway. It has a total area of buildings of 27,071.63m^2. The site is a mixture of 1960s warehouse and open fronted canopy/covered storage areas, one of which was constructed in the 1990s and the other in around 2008. The site is a main sea freight terminal for imported building supplies. It also comprises 362 metres of deep-water wharfage and 4,315.53m^2 of hard surfaced land.

6. Mr Cheeseman appeared on behalf of the Appellant in the dual role of 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 Cheeseman confirmed that he was instructed under 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 the evidence supported the client's case.

7. It was therefore appropriate for the panel hearing the evidence to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

8. This decision document 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 reaching its decision. The absence 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

9. The disputed issues initially related to the following:
    - The tone, the price/m^2 to be adopted in the appeal property's assessment.
    - Whether any allowance was applicable for quantum.
    - The value to be attached to the wharfage.
    - The rate to be applied to the canopy/open sided buildings.

10. Mr Williams had accepted that the open sided buildings should be valued at a relativity of 0.75. At the hearing the parties confirmed that the wharfage element of the valuation had also recently been settled at the figure proposed by Mr Cheeseman. Incorporating this reduction, Mr Williams sought confirmation of a revised assessment of £570,000 RV.

Evidence and submissions

11. A bundle of evidence comprising the information exchanged between the parties during the Challenge process was provided for consideration. This included their respective cases; location plans; photographs of the appeal property; details of properties cited as comparable; the Appellant's revised valuation; details of the Valuation Scheme in which the appeal property was placed (436163); assessments for comparable properties; and rental and assessment evidence from both parties. Reference to case law was also included in the bundle.

12. In his written and oral presentation, Mr Cheeseman explained that prior to the merger of the appeal property with another, it had been of 20,691.8m^2 in size. At that time, its assessment was based upon £25/m^2. As a consequence of the merger, its size had

increased to 27,071.63m^2, however, the basic rate applied remained the same. Mr Cheeseman argued that an allowance for quantum was now applicable, and his revised assessment was based on a rate of £21.25/m^2 to reflect this.

13. Mr Cheeseman stated that the scheme in which the appeal property was placed was a regional scheme. The properties therein were wide ranging in terms of location, age and quality, and from a market dominated by freehold ownership so lease transactions were few. In general, the values adopted within the scheme remained unchanged between the 2010 and 2017 rating lists. Mr Cheeseman referred to settlements for properties within Berkshire, Kent and East Sussex which he considered established that a decline in the market had occurred for properties such as the subject between the 2010 and 2017 rating lists. He argued that this decline was supported by the rental transactions for Units 1B & 1C The Interchange in 2008 and 2016, which showed a fall of 12%. Mr Cheeseman considered that the changes to the rental market, together with the assessments of his comparable properties, further supported his revised assessment of £470,000, based on a rate of £21.25/m^2.

14. In the Challenge Decision Notice and in oral presentation, Mr Williams contended that the appeal property's assessment was correctly based on £25/m^2. He confirmed that the property had been valued on a national specialist valuation scale and the rate on which the assessment was based had not changed from that applied in the 2010 list. He explained that whilst local industrial tone would be considered for such properties, it was not determinative as properties like the subject were too large for a proper comparison to be made. Therefore, consideration had to be given to other larger assessments, to measure whether quantum was a factor that should be reflected. The Valuation Officer had continued on the national agreement established in the 2010 list that any quantum adjustment would not start to show an effect on properties such as the appeal property until after 50,000m^2. Therefore, he resisted the application of a quantum allowance in the appeal property's assessment.

15. Mr Williams concurred that little rental evidence was available as the majority of these larger properties were held on a freehold basis. However, he referred to the schedule of rental evidence set out in the Challenge Decision Notice, which he argued did not support the lower rate proposed by the Appellant. Accordingly, he asked the panel to confirm his revised assessment of £570,000 RV, based on £25/m^2.

Decision and reasons

16. The appeal hereditament must be valued for the purposes 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 detailed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988. The date of the hypothetical rent was 1 April 2015 (the AVD). Matters affecting the physical state or enjoyment of the property, or the locality were to be taken at the material day, which was 12 April 2017 for this appeal.

17. As the appeal property was held on a freehold basis, there was no passing rent for the panel to consider or test its assessment against. Mr Cheeseman had provided the details of a number of comparable properties to support his proposed rate; all of these properties were within the same scheme, which, in effect, related to large industrials across the South East region, these were:

    (i). Givauden, Kennington Road, Ashford, Kent, TN24 0LT. This was a property with a total area of 26,599.77m^2 and its assessment was based on £22/m^2. The site comprised mixed age buildings with 1970s warehousing and 1960s office buildings/staff areas. The new offices on this site had not been subject to any uplift to reflect modernity.

(ii). Premier Grocery Products, Kennington Road, Ashford, Kent, TN24 0LU.
A property with a total area of 28,353.38m^2 with an assessment based upon £20/m^2. It was a large industrial factory and premises with 1940-50s buildings, brickwork offices to the front of the site and factory to the rear.

(iii). Parker Steel, Vauxhall Industrial Road, Canterbury, Kent, CT1 1HD.
This was of 28,709.84m^2 and had been valued at £23/m^2. The property comprised a modern steel frame factory and premises with large canopies/open storage.

18. Mr Williams had referred to three other properties within the same scheme that Mr Cheeseman had not included in his evidence. These were of a similar size to the subject but had been valued using a higher base rate. Overall, he did not believe that a reduction for quantum was warranted in the appeal property's assessment. In consideration of the evidence, the panel concurred with his view, as it found no compelling argument put forward by Mr Cheeseman to justify a quantum allowance in the appeal property's assessment.

19. Mr Williams had submitted a rental schedule which set out the details of three properties that had rents set 12 months prior to and 15 and 20 months post the AVD. This related to:

(i). Chiquita UK Ltd, Kent, ME12 1RS. A property of 2,468.2m^2 with a rent set on 1 January 2014. The rent had analysed to £35.17/m^{2,} and the assessment was based on a substantially higher rate of £70/m^2.

(ii). Units 1B &1C The Interchange, Kent BR8 8TE. A property of 10,778.3m^2 with a rent set on 1 April 2016 that had analysed to £62.88/m^2, the assessment was based on £62.50/m^2. Mr Cheeseman had carried out his own analysis of this rent to fully reflect the six-month rent free period. His analysis came to £56.78/m^2, lower than the rate applied in the assessment.

(iii). Cummins Power Generation Ltd, Kent CT12 5BF. A property of 32,537.11m^2 with a rent set on 1 December 2016, which analysed to £23.20/m^2. The assessment was based on £29.50/m^2.

20. From the rental evidence the panel found that Chiquita UK Ltd and Unit 1B &1C The Interchange were substantially smaller than the appeal property. The panel also accepted Mr Cheeseman's contention that Units 1B & 1C The Interchange was located within the inner perimeter of the M25 and therefore likely have a different market to the broader Kent and Sussex locations covered by the bulk of the appeal property's scheme. Whilst the rent of Cummins Power Generation Ltd was set the furthest from the AVD, this property was the closest in size to the appeal property and therefore considered to be the most relevant, the rent had analysed to £23.20/m^2, less than the price adopted in the appeal property's assessment.

21. Mr Cheeseman had identified four settlements following challenges to the 2017 rating list assessments for industrial type properties of between 4,224.49m^2 and 40,883.29m^2, placed within different schemes. Agreements had resulted in the assessments being reduced by between 7% and 16%. Mr Cheeseman considered that these settlements, together with the changes to the rental market as shown by the 2008 and 2016 rents of

Units 1A & 1B The Interchange, confirmed there had been a decline in rental levels for such properties since the 2010 rating list. The panel found some merit in this argument.

22. After consideration, the panel found the assessments of Givauden, Premier Grocery Products and Parker Steel provided good evidence in this appeal. Whilst these properties were held on a freehold basis and there was no rental evidence to test their assessments against, they were within the same scheme as the appeal property, of a similar size and their assessments were based on rates of between £20/m^2 and £23/m^2. On balance, the panel considered the assessment of Parker Steel to be the most persuasive, it was similar to the subject in size and contained similar elements within its valuation, such as large canopies/open sided storage. Parker Steel was in Canterbury but there was no evidence to show that its location was superior to that of the appeal property. Having regard to the evidence of Parker Steel and the rental evidence for Cummins Power Generation Ltd, the panel found that it was not unreasonable for the appeal property's assessment to be based on a rate of £23/m^2.

23. Having regard to the above, the panel determined the following, based on the breakdown of the assessment submitted by Mr Cheeseman, but reflective of a base rate of £23/m^2.

Floor	**Description**	**Area**	**Price per/m2 unit**	**Value/£**
Ground	Warehouse	933.10	22.42	20,920
Ground	Warehouse	1342.20	22.42	30,092
Ground	Warehouse	3101.00	22.42	69,524
Ground	Warehouse	8532.00	22.42	191,287
Ground	Canopy	363.07	3.37	1,223
Ground	Canopy	847.00	3.37	2,854
Ground	Warehouse	4718.26	17.25	81,390
Ground	Warehouse	6875.00	17.25	118,594
Ground	Portable building	180.00	28.04	5,047
First	Portable building	180.00	18.68	3,362
Hard Surfaced unfenced land		4315.53	3.50	15,104
Wharf		362.00	70.00	25,340
			Total	564,737
Layout/access allowance		10%		56,474
			Total	508,263

Say £508,000 RV

Order

24. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, as amended, the Valuation Officer is ordered to alter the rating list within two weeks of the date of the order to show Transit (Medway) Limited, Crown Wharf, Rochester, Kent ME2 4EP at £508,000 RV with effect from 12 April 2017.

25. Any appeal fee paid will be refunded in full in accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as

amended) provided there is no review of the Tribunal’s decision. The refund will take around six weeks to process.

Date: 28 September 2022

Appeal number: CHG100131004

Right of Appeal

Any party who is aggrieved by the Tribunal’s decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.