THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Base Rate; Relativities; No Natural Light line adjustment; End allowances for fragmentation and layout; Appeal allowed in part.

Addendum:

This decision was originally issued as "Allowed in Part" as a reduction of the Rateable Value from £239,000 to £185,000. The decision has been corrected and is "Dismissed" as the appeal was actually against the already reduced RV to £185,000 with effect from 27 August 2019.

Re: Block E, Bridge Industrial Estate, Speke Hall Road, Liverpool L24 9HE

APPEAL NUMBER: CHG100159856

BETWEEN:	Benross Marketing Limited	Appellant
	And	
	Ms Amanda Hitchings	Respondent
	(Valuation Officer)	

PANEL:	Mr M J Heslop-Mullens	(Chair)
	Miss Leanne Westwell	(Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 1:	5 May 2022	
PARTIES PRESENT:	Mr Paul Rabette	Appellant's representative
	Mr Aaron Barrett	Respondent

Summary of decision

1. The appeal was dismissed. The rateable value (RV) remains at £185,000 with effect from 27 August 2019.

Introduction

2. This 2017 rating list appeal had been brought in respect of the property at Block E, Bridge Industrial Estate, Speke Hall Road, Liverpool L24 9HE.

3. The property was a purpose built industrial warehouse built in the late 1960's, early 1970's with brick and block elevations leading into the upper external walls that had been over clad with steel profile sheets and a steel roof. It was located on a cul-de-sac industrial estate off Speke Hall Road.

4. The appellant's representative submitted a check on 23 September 2019, completed on 6 November 2019 and then submitted a challenge against the rateable value on 28 January 2020. The challenge process was completed on 20 July 2021.

5. The RV was £83,500 on 1 April 2017, the start date of the current rating list, but was increased to £239,000 from 27 August 2019 by a Valuation Office Notice (VON) with an effective date of 27 August 2019 as the property had, at some point, been extended twice to more than double its original size.

6. During the challenge stage the VO offered a reduced RV of £185,000 but this was not accepted by the appellant.

7. The appellant's representative sought a reduced RV of £115,000 with effect from 27 August 2019 based on a rate of £18/m^2 with end allowances of 10% for layout and 5% for fragmentation. He contested the following aspects of the current RV:

   a) The relative areas.
   b) The second floor office space to be considered mezzanine.
   c) Line adjustment for no natural light in some of the office spaces.
   d) The base rate to be reduced for quantum.
   e) Base rate for the extensions.
   f) End allowances for fragmentation and layout.

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 a decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

9. The rateable value of the hereditament.

Evidence and submissions

10. The evidence bundle submitted by the respondent's representative comprised all of the documents exchanged between the parties as part of the challenge process; the Valuation Officer's challenge case decision notice; the appellant's challenge submission; photographs

and location plans of the appeal property and comparable property assessments. The property had been inspected by both parties in 2019 and in 2020.

11. The appellant's representative stated that the extensions were built in 1999 / 2000 and submitted a copy of the planning permission.

12. He also stated that the second floor office space, constructed after the original premises had been built, was mezzanine and should be valued at less than purpose built offices. He had valued it at a relativity of 0.5 but then uplifted this figure by the usual 1.2 (for offices in the main space) and added a further increase for air conditioning of 5% giving a relativity of 0.66.

13. The respondent recognised that this area was different but was not sufficiently so as to be described as mezzanine for the purposes of rateable valuation. In his opinion, a prospective tenant would not consider the area as mezzanine but simply as second floor office space.

14. The appellant's representative requested an adjustment as part of the office space had no natural light. He contended that 8.3% would be an appropriate adjustment.

15. The respondent stated that the current allowance of 5% was more appropriate in his opinion and gave several other comparable properties where this had been applied.

16. The appellant's representative had initially contended that the base rate for the main space should be reduced for quantum from £20/m^2 to £17.50/m^2, however, during the hearing he stated that he now sought a base rate of £18/m^2. He offered some properties as comparable to support his reasoning, Blocks F and D on the same industrial estate, the John Lewis Partnership on the same road as the appeal property and the property known as Beckacite House on Edwards Lane where an agreement to reduce the base rate had been made. He felt that there should be a reduction due to quantum as the appeal property was over 8,000m^2 and much larger than other properties within the same scheme.

17. The respondent stated that the availability of appropriate comparative rental evidence was poor but offered one property as it was similar in size, age and was in the immediate locality of the appeal property. This was Duni Ltd. at Unit J, The Triumph Centre, Speke Hall Road, Liverpool L24 9GB. This property analysed at £20/m^2 and the respondent was relying on it to demonstrate the tone of value for the appeal property. In terms of quantum, the respondent stated that such reductions must be proven by rental values but no evidence had been produced.

18. The respondent made reference to Beckacite House in that an agreement had been made on the back of another agreement on the property at In Frame House, 27 Triumph Way. He stated that the agreement was based on circumstances that did not properly reflect the market rental conditions and therefore could not be relied on. Further, In Frame House was not appropriate as a comparable as the property had reduced eaves height of 4.5m.

19. The appellant's representative also requested that the extensions to the property be valued at the same lower rate as the main hereditament and provided details of comparable properties where this had been done. In response, the VO agreed and stated they will be reviewing other properties.

20. The result of this was that the base rate for the extensions of the appeal property would be reduced but not to the level of the main base rate. The VO provided some comparable properties to support his argument.

21. The appellant's representative further requested that the extensions not be valued against a much more modern unit. The respondent agreed but also advised that, whilst reviewing, he had found that the appeal property was in the wrong valuation scheme.

22. The appellant's representative stated that the property was compartmentalised, that there were only two doors into the property and only one door between Area A, the original building and Area B, the first extension and no connection between Area A and Area C, the second extension. For these reasons he contended that there should be end allowances for the layout (10%) and for fragmentation (5%).

Decision and reasons

23. The panel referred to the Local Government Finance Act 1988. The term 'rateable value' being defined in paragraph 2(1), Schedule 6 to the Act:

> "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".

24. 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).

25. In reaching its decision, the panel had regard to the Lands Tribunal judgment of Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141. This case had established six propositions giving clear guidance to be followed when assessing rateable value, namely:

(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the

definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.

26. The panel noted that the VO had reduced the RV from £239,000 to £185,000 and had submitted that, in his opinion, this valuation was now fair and reasonable.

27. The panel noted that a new lease had been granted on the property dated 30 September 2018 for five years at an annual rent of £108,000. However, this was a rent between connected parties and the panel did not attach much weight to it for the valuation of the appeal property.

28. In respect of the mezzanine office space the panel found that whilst there may have been some small differences to normal office space, any prospective tenant would not consider that the space was anything but offices and therefore there was no justification to reduce the base rate. Mezzanine floor space is often a bare elevated platform used for storage and this was not the case for the appeal property. Further, as the extensions were more modern, they had been rightfully considered as of a higher value.

29. The panel noted that the VO had already allowed a 5% adjustment due to there being little natural light in parts of the office spaces. The VO contended that this was supported by the following properties suffering the same kind of disability where a 5% adjustment had been given:

Littlewoods Organisation plc, 122 Old Hall Street, Liverpool
Serco, 1st Floor Phoenix House, Moorgate Road, Liverpool
Capita, Phoenix House, Moorgate Road, Liverpool
Units 1,2 and 3 Deltic Court, Gores Road

The panel was not provided with any evidence to show that the reduction should be more for the appeal property.

30. The panel found that not enough evidence had been submitted to convince that a reduction of the main base rate of £20/m^2 was appropriate. The panel found that the property at Duni Ltd, Unit J, The Triumph Centre, slightly larger than the appeal property but similar in age,

build and quality and analysing at £20/m^2 was very good supporting evidence for the valuation of the appeal property. Further, this property showed that whilst quantum can be a consideration in the valuation of large non-domestic properties it must be supported by rental evidence and, clearly, this was not the case here.

31. The panel noted the lack of reliable comparable rental evidence but were satisfied that Duni Ltd provided enough evidence for the purposes of the valuation of the appeal property.

32. The panel noted that the appellant's representative had submitted the following properties as comparable and supporting such a reduction:

    Block F, Bridge Industrial Estate, Speke Hall Road, Liverpool
    Block D, Bridge Industrial Estate, Speke Hall Road, Liverpool
    (These two properties were either side of the appeal property)

    John Lewis Partnership, Speke Hall Road, Liverpool
    BIO-DEG, Beckacite House, Edwards Lane, Liverpool

33. Block D and Block F are a half and a quarter of the size of the appeal property respectively, have unadjusted base rates higher than the appeal property and the panel did not find that these were suitably comparable to the appeal property. The panel also found that the four properties did not demonstrate that a lower value should be used as there was little by way of rental evidence to support that contention.

34. In respect of the proposed end allowances for layout and fragmentation, the panel were presented with the properties at Beckacite House, comprising of three separate buildings unlike the appeal property, 1 Estuary Banks, also not comparable and Kirkby Tyres, a number of multiple properties within one hereditament and, for these reasons, the panel did not find them to be suitably comparable.

35. The panel therefore found that such end allowances were not warranted as there did not appear to be any significant problems in respect of these matters for the appeal property.

36. The various parts of the property were generally linked and did not suffer from the same kind of disabilities as the properties the appellant's representative had submitted as similar.

37. In appeals of this nature, the burden of proof rests with the appellant to show that the assessment of the appeal property was excessive. The panel were satisfied that the RV should now be £185,000 but had not been presented with sufficient evidence to further reduce the RV below £185,000.

38. The appeal was therefore dismissed.

Date: 21 June 2022

Appeal number: CHG100159856