THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Warehouse and premises; Rental evidence; Base rate £m²; Tone and comparable properties; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Appeal allowed.

Re: Unit 4 at 43 – 47 Glengall Road, London SE15 6NJ

APPEAL NUMBER: CHG100160607

BETWEEN:	Philip Kingsley Products Limited	Appellant
	and	
	Mr Andrew Ricketts, Valuation Officer	Respondent

PANEL:	Mr Kevin Everett	(Chair)
	Mr Paul Phelps	(Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 1:	8 February 2022	
PARTIES PRESENT:	Mr Stewart Carter, Altus	Appellant's advocate
	Mr Matt Morrison, Altus	Appellant's expert witness
	Mr Chris Cates	Respondent's representative

Summary of decision

1. The appeal was allowed. The panel determined a revised rateable value (RV) of £80,500 with effect from 1 April 2017.

Introduction

2. This 2017 compiled list appeal was brought in respect of Philip Kingsley Products Ltd situated at Unit 4, 43 – 47 Glengall Road, London.

3. The property was a warehouse situated within Glengall Business Centre by the A2, Old Kent Road. It was built in 2007 and had a total area of 625.67m² and In Terms of Main Space (ITMS) an area of 679.28m². The property was valued on a base rate of £150/m² giving a rateable value of £104,000 at 1 April 2017. The property was held freehold.

4. The appellant submitted an appeal against the Valuation Officer's decision notice of 4 May 2021 that the proposal to reduce the rateable value to £77,000 was not well-founded. The appellant later increased his valuation to £80,500 on a base rate of £115.50/m^2 that included an end allowance of 2.5% for no heating on the ground floor.

5. 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.

6. 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.

7. 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.

8. Mr Matt Morrison appeared on behalf of the appellant as expert witness. 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 cases.

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 they saw fit.

Issue

10. The rateable value of the hereditament.

Evidence and submissions

11. 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.

12. The respondent stated that the current RV was calculated on a base rate of £150/m^2. In support of the RV he stated that there was only one other rent available for comparison in the business centre at 43 – 47 Glengall Road and that was for Unit 3. This was a rent review from 1 June 2014, based on a lease from 2009 for 10 years with 5 yearly rent reviews. The

rent was £93,000 per annum and analysed to £147/m^2. In his opinion, this supported the current valuation of £104,000.

13. The appellant had submitted that Unit 1 was comparable, however, in the respondent's opinion that property was 3 times bigger than the appeal property, would attract a different market and therefore was not appropriate.

14. The appellant's representative submitted that the RV was out of kilter with other properties in the vicinity. He submitted that the best comparable rent was that for Unit 1. This was a new letting from 8 September 2015 for 10 years with 5 yearly rent reviews and 10 months rent free. The Land Registry Particulars Delivered form stated that the rent was £250,000 and he had analysed this to £201,242 at a rate of £107/m^2.

15. He felt that this provided good evidence for the valuation of the appeal property and accepted that a rounding to £110/m^2 would be reasonable and appropriate as its base rate. As Unit 1 was considerably larger than the appeal property he submitted that there may have been an element of quantum in its valuation and he had therefore added an additional 5% to his appeal property valuation. This gave a base rate £115.50/m^2 and an RV of £80,500 which, in his opinion, was more reasonable.

16. In further support of a reduced RV for the appeal property he submitted that Unit B, 2 – 10 Ossory Road, London SE1 5AN provided further evidence. It is directly comparable to the appeal property in eaves height, size and location being at the rear of the same industrial estate. It was older than the appeal property and this was probably reflected in its rental agreement in that it was let on a 15 year lease at £96,579 per annum with 5 yearly rent reviews and a 12 month rent free period. This analysed to £74,579 and a rate of £83.50/m^2.

17. With regard to the rental evidence for Unit 3, he stated that the terms of the lease were that any rent reviews could only result in the rent staying the same or increasing in rent. In June 2014 it was determined that the rent should remain at £93,000. In his opinion, this indicated that the market had somewhat stagnated as there had effectively been no increase in rent since 2009. Consequently, the current rent had not been tested on the market since 2009. In his opinion, this meant that Unit 1 did not provide a reasonable comparable and no weight should be attached to that evidence.

Decision and reasons

18. 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 –"

19. 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).

20. The panel noted that the property was held freehold and therefore did not have any rental evidence.

21. The panel were aware of the Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted. The panel were therefore required to look at other similar properties in the vicinity for comparison.

22. The panel further noted that most of the properties in the vicinity were also held freehold and there was therefore limited evidence available to them for comparison purposes. They were presented with the following details:

Address	Area	Date of rent	Rent	Analysed rent	UAR /m^2	RV
Unit 3	570.28m^2	1 June 2014	£93,000	£147.17	£150	£94,500
Unit 1	1,701.34m^2	8 September 2015	£250,000	£106.92	£142.50	£265,000

23. The panel found that Unit 1 provided very good evidence for the appeal property to be valued at a lower rate. This was a new letting in September 2015 just five months after the AVD. It was three times the size of the appeal property and the panel found that it was appropriate for the appellant to consider that there may have been an element of quantum associated with it and therefore that the base rate for the appeal property should be higher than for Unit 1.

24. The panel also found that Unit B, 2 – 10 Ossory Road provided further evidence that the appeal property was overvalued. This property's rent was from an open market rent and analysed at a value well below that of the appeal property at £83.50/m^2 and this was likely to be because it was older and perhaps not in as much of a favourable location.

25. The panel found that the rent for Unit 3 was unreliable as it was only a review and not a market tested rent. Further, that because of the provisions of the rent agreement in the rent remaining the same or only being increased, it meant that the rent was the same as it was in 2009, a period of six years before the AVD. This may also indicate that the market for these properties had reduced in value over the six year period although the panel were not provided with any direct evidence that this was the case.

26. The panel noted that it was unfortunate that the amount of comparable rental evidence was so small, however, the panel found that there was clear evidence that the base rate of the appeal property and hence the RV should be considerably lower than £104,000 in order to take into account the factors stated above but, in particular, the passing rent on the two properties in the vicinity of the appeal property.

27. For these reasons, the panel found the valuation should be re-calculated on a base rate of £115.50/m^2 resulting in an RV of £80,500 with the effective date of 1 April 2017.

Floor	Description	Area m^2	Base Rate £/m^2	RV
Ground	Store	317.88	112.6	£35,793
First	Office	307.79	138.6	£42,659
			Subtotal	£78,452
		8 car spaces		£2,400
			Total	£80,852

			RV, say	**£80,500**

(Using the base rate of £115.50/m^2 and giving an allowance of 2.5% off the Store area rate for no heating).

28. The appeal is therefore allowed.

Order

29. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, S.I. No. 2269 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in respect of Unit 4 at 43 – 47 Glengall Road, London SE15 6NJ to an RV of £80,500 with effect from 1 April 2017.
30. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 14 February 2022

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