THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Warehouse 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 allowed.

Re: Unit 4 Travellers Lane, North Mymms, Hatfield, Herts, AL9 7HF

APPEAL NUMBER: CHG100184632

BETWEEN: Allneeds Group Ltd 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 15 March 2021

APPEARANCES: Mr M Clayton of Altus Group for the appellant
Mr H Watson for the Valuation Officer

Summary of decision

1. The appeal was allowed. The panel confirmed a revised rateable value of £98,000 with effect from 1 August 2018.

Introduction

2. This appeal has been brought in respect of the following: Unit 4 Travellers Lane, North Mymms, Hatfield, Herts, AL9 7HF which was entered in the 2017 rating list as “warehouse and premises” at rateable value £164,000 (based on £50/m^2) effective from 1 August 2018. Following a challenge the rateable value was reduced by the Valuation Officer to £114,000 (based on £35/m^2). The appeal property has an effective date from 1 August 2018 as the address was amended.

3. The appellant’s challenge proposal to the Valuation Officer was made on 3 April 2020. The Valuation Officer issued a challenge decision on 9 September 2020 which stated that a

revised rateable value of £114,000 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 2 October 2020 and made on the grounds that the Rateable Value is is not reasonable.

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. The appeal was previously listed to a hearing on 8 March 2020 but it was adjourned part heard. When presenting his case, Mr Watson introduced the Upper Tribunal case of *Stock Auto Breakers Ltd* v *Sykes VO* [2020] RA/12/2019 which Mr Clayton was not familiar with. Therefore, the panel adjourned to allow Mr Clayton the opportunity to read this case. The hearing was reconvened on 15 March 2021.

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

Issue

8. The issue between the parties concerned the rateable value of the appeal property and, specifically, the rate per m^2 that should apply. Mr Clayton, for the appellant, sought a reduction to £98,000 rateable value based on an unadjusted rate of £30/m^2. Mr Watson for the valuation officer sought for the rateable value of £114,000, to be confirmed by the panel which was based on an unadjusted rate of £35/m^2.

Evidence and submissions

9. The appellant's representative, Mr Clayton, had provided the Tribunal with both parties' submissions.

10. Mr Clayton was seeking a revised rateable value of £98,000 and relied on the following evidence:

    a) The appeal property is a warehouse and premises and was constructed in 1971 and comprises of ground and first floor with mezzanine space. It has steel frame metal profiling. It has a total area of 3298.93m/^{2} and is in terms of main space (ITMS) 3,367.38m^2. It is held on a freehold basis so there is no passing rent. As there is no passing rent, there is a need to turn to comparable evidence to determine the appropriate level of value. The price per metre squared is not in line with comparable properties in the locality.

b) The appeal property is currently valued on the scheme 430005 which is a catch all scheme for properties in Welwyn and Hatfield of between 2000m^2 and 4000m^2 of any age. The majority of industrial properties in Welham Green, especially the older units have been placed in a rural location scheme due to the village location and poor access routes. This is scheme 300947. This relates to Welwyn and Hatfield industrials constructed between 1965 and 1974.

c) There are a number of properties that have been valued in the area on £30/m^2.

   I. Emmanuel House & Wingate Business Centre, Traveller Close, Welham Green AL9 7HQ. This is 6,376.02m^2 ITMS and valued at £30/m^2.

   II. Unit 4 Traveller Close, Welham Green AL9 7JB (similar address to the appeal property but it is a different assessment) ITMS 5.584.37m^2 at £30/m^2.

   III. Biffa Waste Services Ltd, Travellers Close, Welham Green, AL9 7LA, same location but much smaller than the appeal property at 1,366.03m^2 at £30/m^2.

   IV. Mabey, Travellers Lane, Welham Green, AL9 7HS, ITMS 1,257.03m^2 at £30/m^2.

   V. Travis Perkins Tag Co Ltd, Travellers Lane, Welham Green, AL9 7JD, ITMS 1,172.40m^2 at £30/m^2.

   VI. Alloy Sales Ltd, Travellers Lane, Welham Green, AL9 7HF, ITMS 2,880.49m^2 at £32.50/m^2. This property has been valued on the same catch all scheme as the appeal property on scheme 430005.

d) These units, all built between 1965 and 1974, and ranged in size from 1200m^2 to over 6000m^2, all within the same age band and locality as the appeal property and valued at £30/m^2 except for Alloy Sales Ltd which has been valued slightly higher at £32.50/m^2. They support a reduction on the appeal property from £35/m^2 to £30/m^2.

e) Tams Packing Ltd and Titchfield Construction Ltd are in Cuffley and 26-28 Hyde Way, Welwyn Garden City put forward by the Valuation Officer to support the rate of £35/m^2 are situated six miles away. Dormore Ltd in Hatfield is slightly closer, but still situated four miles away. The only property in the Welham Green area is Unit 3, Travellers Close but had been valued at £70/m^2 as it is much more modern, built in 1990's and is far superior in terms of age and specification compared to the appeal property.

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

   a) Mr Watson expressed that there has been inconsistencies in identifying the addresses. The majority of properties have addresses which identify as Travellers Lane, North Mymms, Herts. There is another variation on the address as Welwyn Green, North Mymms. There has also been inconsistencies of addresses at Travellers Close, situated off Travellers Lane. Due to the differences in addresses it made research and data gathering more difficult.

b) At the Travellers Lane estate, the factory and warehouse premises assessed in the 2017 rating list are currently in eight different valuation schemes, of which six cover the properties sited by either Mr Clayton or the Valuation Officer. The appeal property has been placed in an address based scheme which has been described as industrials Welwyn or Hatfield 2000m^2 to 4000m^2. Whereas others on the estate are in schemes based on size.

c) Mr Watson referred to Mr Clayton's comparable properties as follows;

I. Emmanuel House – This property was estimated to have been built between 1940 and 1954 and has an eaves height of 3.66m. The scheme for this property, 433533, is described as industrials between 4000m^2 to 10,000m^2 in Hertfordshire in 1965 to 1974. The property consists of a number of elements of different age and style. The valuation is split into three different elements. The second element is a 1998 extension to the main building, it represents approximately 1200m^2 of the overall total significant area. This has an eaves height of 6m but is valued on a different scheme of industrials between 4000m^2 to 10,000m^2 built in 1994–1999 and is priced at £55/m^2.

II. Unit 4 Traveller Close - is priced at £30/m^2, aged between 1964 to 1970 and has an eaves height of 3.9m. The same address based scheme has been used of 433533. Despite its address this property fronts Travellers Lane.

III. Alloy Sales – Has a base price of £32.50/m^2 and aged between 1965-1970 and has an eaves height of 7.6m. It is in the same valuation scheme as the appeal property (430005). It has a 1982 built extension of approximately 1500m^2. This has 6.68m eaves. The newer extension is not on a different scheme, instead it has a quality uplift of 25%. The base price is therefore £40.25/m^2.

IV. 4 Travellers Lane – Aged late 1960's with an eaves height of 3.9m. This property has been valued with reference to a size scheme (300947), described as Welwyn and Hatfield industrials 1965 to 1974 rural location. Everything exceeding 500m^2 has been priced at £30/m^2 in the scheme. This property has an uplift of 20% for quality, resulting in £36/m^2.

V. Biffa Waste – aged 1955 to 1964 with an eaves height of 7.6m. It has been assessed with reference to another size based scheme (300987) described as Welwyn and Hatfield industrials pre 1965 rural locations. Everything exceeding 500m^2 has been priced at £30/m^2 in the scheme. The cut off for the scheme was 1300m^2. There are 74 hereditaments which are valued in this scheme, many of them at Travellers Lane estate. Only six hereditaments in this scheme have a total significant area greater than 500m^2 and only two in excess of 1000m^2.

VI. Travis Perkins – Aged similar to appeal property at 1971, eaves 6.1m, again very similar to the appeal property. This property has been valued with reference to a size scheme (300947), described as Welwyn and Hatfield industrials 1965 to 1974 rural location. Everything exceeding 500m^2 has been priced at £30/m^2 in the scheme. This property does not have any uplift.

VII. Mabey – Aged 1955 to 1964 with 6m eaves. The main accommodation is in the same valuation scheme as Biffa Waste (300987). It has a second valuation for a unit comprising a detached single storey office building of 137m^2 built in 1987. This is on a different valuation scheme of 1985 to 1993 Hatfield industrial estates in a rural location. The office part is valued at £69.47/m^2 plus 20% uplift for offices.

d) The smaller comparable properties of 1200m^2 to 1500m^2 (Mabey, Travis Perkins, Biffa Waste and 4 Travellers Lane) did not appear to be of direct relevance to the much larger appeal property. There are strong indications that at the time of the 2017 revaluation these were not considered to fall within the same market segment as the larger premises.

e) There has only been one other settled challenge on this estate to date. No reduction was given in the Valuation Officer's final decision notice. However, an established tone has not yet come about for this estate. In paragraph 62 of the Upper Tribunal case of *Stock Auto Breakers Ltd* v *Sykes, Mr Trott stated;*

> *"The appellant relied on assessments and argued that there is now a settled tone of the 2017 List. I do not agree. There were only eight challenges to the assessment of land hereditaments in Essex as at 7 October 2019. There is no time pressure on a ratepayer to check and challenge an assessment and the importance of making early proposals under previous lists, and thus the earlier establishment of a tone, no longer exists".*

Decision and reasons

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

13. 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

14. 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 April 2017.

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

16. 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. As there was no rent passing on the appeal property, the panel turned to the comparable properties sited by the parties.

17. The panel considered that the comparable properties put forward by Mr Watson were of less relevance. They majority were situated four to six miles away from the appeal property. The only comparable property within the immediate location of the appeal property was that of Unit 3 Travellers Close. However, as this was a much more modern property, it had a higher rate of £70/m^2 and could not be considered to be comparable to the appeal property.

18. Whilst Mr Watson gave a detailed explanation regarding why several scheme references have been used for the same industrial estate, the panel placed very little weight to this evidence. Some of the schemes referenced referred to being in a rural location, however Mr Watson had expressed that he did not consider the location to be rural.

19. Whilst Mr Clayton had provided several comparable properties on the same estate that supported a rate of £30/m^2, the panel found the best comparable property to be Travis Perkins. It was noted that this property is of similar age to the appeal property and similar eaves height. This property had been valued on a size based scheme (300947) although it was slightly smaller than the appeal property at 1,172.40m^2 ITMS.

20. However, the panel also noted that Unit 4 Travellers close measured 5,584.37m^2 ITMS and was still valued at £30/m^2. As was Emmanuel House which measured 6,376.06m^2.

21. The panel determined that the rate should be reduced from £35/m^2 to £30/m^2 in line with My Clayton's proposal valuation. This resulted in a reduced rateable value of £98,000 and the appeal was allowed.

Order

22. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England

orders the Valuation Officer to alter the appeal property's entry in the 2017 Rating List to £98,000 RV with effect from 1 August 2018.

23. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fees

24. 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: 29 March 2021

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