THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; workshop and premises; level of value; rental evidence; comparable properties; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; appeal dismissed.

Re: Unit 1, Hawick Crescent Industrial Estate, Newcastle upon Tyne, NE6 1AS

APPEAL NUMBER: CHG100354542

BETWEEN: The Yorkshire Tile Company Ltd Appellant

and

Ms J Moore Respondent

(Valuation Officer)

PANEL: Mr K Sutch (Senior Member) and Dr J Johnson

CLERK: Mrs S Morgan

REMOTE HEARING: Wednesday 23 March 2022

PARTIES PRESENT: Mr G Herron of Altus Group representing the Appellant

Ms A Hurson – Valuation Officer's representative

Summary of decision

1. The appeal was dismissed. The panel confirmed the appeal property had been correctly valued as a workshop and premises at £26,250 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal. Unit 1, Hawick Crescent Industrial Estate, Newcastle upon Tyne (the ‘appeal property’) had been entered in the 2017 rating list as ‘workshop and premises’ at a RV of £26,250 with effect from 1 April 2017.

3. The challenge submission was made by the Altus Group on behalf of The Yorkshire Tile Company Ltd and was received by the Valuation Officer on 4 August 2020. It had been made on the grounds that the appellant believed that the current unadjusted rate for the appeal property was excessive when considering its 2014 rent. He sought a revised RV of £19,750 with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice in which it stated that based upon the evidence and information available, he believed that the existing rateable value based on £50/m^2 was reasonable.

5. Mr Herron 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. Mr Herron 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.

6. 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.

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 item of evidence, should not be construed as it having been overlooked.

Issue

8. The appellant’s representative contended that the rate adopted for the appeal property was excessive. He sought a reduction to £37.50/m^2 whilst the Valuation Officer (VO) contended that the existing £50.00/m^2, was reasonable.

Evidence and submissions

9. The bundle comprised all of the documents exchanged between the parties as part of the challenge process. This included: the challenge document and supporting evidence; the Valuation Officer’s initial response; comparable properties; rental evidence, location plans;

photographs of the appeal property and comparable properties, assessment and rental evidence, tenure information, the definition of rateable value and case law.

10. The appeal property is a detached unit of steel construction which measures 525m^2 and includes a small area of ground floor office space and on-site parking. It has an eaves height of 4.5m. The premises were built in 1979 in an established industrial location of mainly smaller terraced industrial units, in the Walker area, one mile east of Newcastle upon Tyne City Centre. It has good communication links to the city centre, quayside, A1 and A19 via the central motorway.

11. The appeal property is part of valuation scheme 332005, where the adopted rate of £50/m^2 was applied to the appeal premises. The range of values covered by this scheme are between £40/m^2 and £60/m^2 for properties under 1,000m^2.

12. In support of his case, the appellant's representative referred to the appeal property's current 5-year lease with effect from 25 March 2019 at £29,160 per annum (pa). This lease was subject to a rent of £7,290 for 6 months in year 4. He also referred to the previous lease which was for 5 years with effect from 21 March 2014 at a rent of £22,000 with 3 months initially rent free and £16,000 pa in year 2. The lease was FRI terms.

13. As the appeal property was leasehold the appellant's representative believed that the 2014 rent was the best evidence. He had analysed the terms of this lease to £37.28/m^2. The appellant's representative believed that having taken all the evidence into account, that £37.50/m^2 for the appeal property seemed fair and reasonable. He sought a revised assessment of £19,750 RV with effect from 1 April 2017.

14. The respondent had provided five pieces of rental evidence for industrial units in Newcastle upon Tyne as follows.

Address	Year built	Total significant area	Adjusted rent	Analysed rent per m^2	Adopted rate per m^2
1 Hawick Crescent Ind Est, Newcastle upon Tyne	1979	523.60m^2	£19,700 21/03/2014	£37.28	£50.00
Unit 1 Walker Riverside Ind Est	1990	468.10m^2	£25,000 25/11/2014	£53.41	£52.50
Unit 9 Hawick Crescent Ind Est.	1979	404.10m^2	£22,000 1/11/2014	£53.91	£50.00
Swift Brake & Clutch, Brunel Street and Railway Street	1980	595.20m^2	£19,000 1/12/2014	£50.25	£50.00
Units 1, 2 and 3 Union Street	1982	532.90m^2	£23,689 29/9/2014	£48.89	£52.50
Unit 10 Hawick Crescent Ind Est.	1979	785.50m^2	£24,656 1/7/2016	£38.29	£47.08

15. The respondent contended that the valuation scheme in which a property was placed was used to bulk properties together. Just because some of the comparable properties were in different valuation schemes did not mean they should be disregarded. She had considered age, size and location in relation to her comparable evidence which included new lettings and lease renewals.

16. The respondent made some additional comments regarding her comparable evidence.

- Unit 1, Walker Riverside Industrial Estate is a new letting and provided a similar construction and accommodation to the appeal property. It also occupied a comparable position on the outskirts of the city centre.

- Units 9 and 10 Hawick Industrial Estate are located on the same industrial estate as the appeal property. Unit 10 is almost one third larger than the appeal property and is valued within a larger matrix, to reflect quantum, hence its lower adopted rate.

- Swift, Brake & Clutch, Brunel Street and Railway Street is a lease renewal. This property is situated in a similar location, one mile to the west of the city centre.

- Units 1, 2 and 3 Union Street is a lease renewal. This property is situated one mile to the west of the city centre.

17. The respondent was of the opinion that the March 2014 rent for the appeal property was not the best evidence, as it was over one year prior to the AVD. She contended that a larger basket of rents would need to be considered together with the growth in the rental market between the commencement of the appeal property's lease in 2014 and its renewal in 2019 detailing the reviewed rent of £29,160 pa, which analysed to £53.74/m^2.

18. Based on the wider basket of rents and the growth in the rental market, the respondent believed that the existing assessment for the appeal property of RV £26,250 with effect from 1 April 2017, was fair and reasonable. She therefore sought a dismissal of the appeal.

19. In his rebuttal of the respondent's rental evidence, the appellant's representative made the following comments.

- Riverside was a more superior location. It was close to the quay and attracted a strong demand from the offshore industry. This property was in a different valuation scheme to the appeal property.

- The letting on Unit 9 Hawick Industrial Estate was some 20 months prior to AVD and was therefore too far away to be useful.

- Swift, Brake & Clutch, Brunel Street and Railway Street was situated in a busier, more commercial area with a larger number of retail and industrial units. Its price per m^2 reflected its location compared to that of the appeal property. This property was in a different valuation scheme to the appeal property.

- Units 1, 2 and 3 Union Street was arguably in a more superior, mixed-use location, close to the city centre. This property was in a different valuation scheme and had a higher main space price.

- Unit 10 Hawick Industrial Estate included part first floor and a mezzanine area in its 2016 rent. It was a larger unit which devalued to £38.29/m^2. This equated to 19% lower than the adopted tone. The rent on the appeal property was 25% lower by comparison.

Decision and reasons

20. The main issue in dispute concerned the level of value to be adopted for the appeal property.

21. The term ‘rateable value’ is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> “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;
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> 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”.

22. 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 AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

23. 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 1 April 2017.

24. Both parties had referred to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This Lands Tribunal judgment 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.

25. The appellant's representative had contended that the best evidence was the 2014 rent for the subject property and therefore he had adopted the analysed rental figure of £37.28/m^2 (rounded to £37.50/m^2) in his revised assessment for this property. The respondent, on the other hand, argued that based on the wider basket of rents and the growth in the rental market, £50.00/m^2 was reasonable.

26. The panel was aware that the rent on the appeal property was as the *Lotus and Delta* case found, to be the starting point. This was a March 2014 rent of £22,000 pa, adjusted to £19,700 pa, which devalued to £37.28/m^2 and was a new letting. However, it was also aware that after the rent on the appeal property it was important to consider the whole basket of evidence when assessing a rateable value.

27. The respondent had provided a rental summary for a number of comparable properties, two of which were situated on the same industrial estate. The panel noted that the analysed rents on the comparable properties ranged between £37.28/m^2 and £53.91/m^2 against the adopted base rates of £47.08/m^2 to £52.50/m^2. Based on the comparable properties, closest in terms of age, size and location, the panel found that the adopted value of £50.00/m^2 on the appeal property was not unreasonable.

28. Having considered all the evidence presented at the hearing, the panel determined that the assessment should not be reduced. The price per m^2 that had been applied to other similar aged industrial properties in the same locality with some being on the same valuation scheme, supported the level of value adopted of £50.00/m^2 for the appeal property. This was in the middle of the price per m^2 range that had been applied to properties of this nature. With this in mind, the panel was not persuaded to reduce the level of value from the existing £50.00/m^2 for the appeal property.

29. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the case before it, the panel concluded that he had failed to produce sufficient evidence to justify his claim for a reduction in the level of value. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated and dismissed the appeal.

Date: Tuesday 19 April 2022

Appeal number: CHG100354542