THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; warehouse and premises; rental evidence; comparable assessments; appeal dismissed.

RE: Unit P2, Parklands, Heywood Distribution Park, Heywood OL10 2TT

APPEAL NUMBER: CHG100376517

BETWEEN:	Paul Hartmann Limited	Appellant
	and	
	Amanda Hitchings (Valuation Officer)	Respondent

PANEL: Dr J Johnson (Senior Member)
Mrs S Nix (Member)

CLERK: Ms R Muller

HEARING: Remote Hearing No. 2 on 5 September 2022

APPEARANCES: Mr Owen Scorer from Altus Group, the representative for the Appellant
Mr Tim Brown, the representative for the Respondent

Summary of decision

1. Appeal dismissed. The assessment was confirmed at rateable value (RV) £452,500 with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal. The RV of the subject property was entered into the rating list £452,500 from 1 April 2017, as warehouse and premises. As this was a compiled list entry, the material day for this appeal was the same date of 1 April 2017. A check had been submitted on 5 June 2020 and completed on 3 July 2020 with no change to the RV of the subject property. A challenge was submitted on 14 August 2020 and was completed on 5 November 2021.

3. An appeal was received by the Tribunal on 1 March 2022, on the grounds that the valuation for the hereditament was not reasonable. Originally, the proposed RV sought by the appellant was £265,000, but this was changed during the challenge stage to £377,500 RV with an effective date of 1 April 2017.

4. Mr Scorer appeared on behalf of the appellant as advocate only instructed on a conditional 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 or not the evidence supported the client's case.

5. The subject property was built circa 1990's and was located within Heywood Distribution Park on the outskirts of Bury with easy access to the motorway network M66 and M62. The property consisted of a steel portal frame construction, which provided an open plan warehouse and two storey offices and associated parking. The total gross internal area (GIA) of the subject property was 9,273.90 m² and had been placed into the valuation scheme 389507, which included 17 list entries comprising hereditaments, where the measurements ranged from 209.50 m² to 15,317.10 m².

6. This document is not intended as a verbatim report of the proceedings, nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before the panel by the parties should not be construed as an indication that that statement or item of evidence has been overlooked.

Issue

7. The issue for the panel to consider was the correct base rate to be applied in the appeal property's assessment. The Valuation Officer contended that £46/m² was correct, but Mr Scorer requested the panel determine a rate of £38.50/m².

Evidence and submissions

8. Mr Scorer submitted a bundle of evidence which included: a summary of evidence statement; supporting legal arguments; issues for the Tribunal to determine; a summary of comparable assessments and rental evidence and a copy of the current valuation along with a copy of his proposed revised valuation. A reduction to £377,500 RV was sought with effect from 1 April 2017.

9. Mr Scorer contended that the base price of £46/m² was excessive when looking at the comparable properties provided. It was clear that adopted values at Heywood Industrial Park were excessive. Therefore, he requested that the panel reduce the unadjusted base rate from £46/m² to £38.50/m², which would produce a revised assessment for the subject property of £377,500 RV.

10. Mr Brown, the representative for the respondent, provided a copy of the challenge decision, the appeal history with agreed and disputed issues; the current rateable value, along with his contention that the current RV of £452,500 was correct and requested that the panel dismiss the appeal.

Decisions and reasons

11. In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that: 2(1) 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.

12. There was a lease on the subject property which commenced on 1 October 2016 and had a passing rent of £542,864 per annum. The panel noted that this rent commenced 18 months post the AVD of 1 April 2015. When making its decision, the panel considered the rent as part of the basket of evidence before it.

13. Mr Scorer referred the panel to the following comparable properties in support of his contention that properties located on Heywood Distribution Park and the surrounding area were over assessed:

Address	Valuation Scheme	Size ITMS (m²)	Unadjusted base rate	Agent analysed rent (m²)
**Unit P2, Parklands, Heywood Distribution Park*	*389507*	*8,917.10*	*£46.00*	*£38.50*
Unit B1, Broadlands, Heywood Distribution Park	389313	5,877.82	£34.00	£26.72
Unit M3, Mulberry, Heywood Distribution Park	389313	13,032.52	£30.00	£23.61
Unit B10, Broadlands Heywood Distribution Park	389319	3,945.70	£41.50	£30.67
Unit 3, Broadlands Distribution Centre, Pilsworth Road	297348	2,098.10	£48.50	£38.50

**Subject property*

14. Mr Scorer had also included details of Unit B6 Broadlands, Heywood Distribution Park, which had been placed into valuation scheme 393736. This property was built in 2000 and measured 9,924.68m² ITMS and had an unadjusted base rate of £42.50/m². Mr Brown stated that this was in a different valuation scheme with a lower unadjusted base rate due to the fact that it was valued on a large distribution valuation scheme instead of a normal distribution valuation scheme but was similar in size to the subject property. Mr Brown informed the panel that Unit B6's assessment was going to get reviewed at the next revaluation.

15. The panel found Unit B6 to be similar in size, although a slightly newer build. The panel was informed that it was refurbished in 2010 but had a lower price /m². The fact that it was on a different valuation scheme of a large warehouse valuation scheme and its assessment was to be reviewed when the new revaluation was completed, did not mean that anything will change. Therefore, again the panel placed little weight on this comparable property.

16. Mr Scorer stated that Unit B1 was the most useful considering the proximity to the subject property and the rent which commenced on 5 January 2015, was only three months prior to the AVD of 1 April 2015. Mr Scorer informed the panel that according to their records, his data showed that Unit B1 was constructed in 1996 and not prior to 1954 as stated by the Valuation Officer (VO) and therefore, should be in the same valuation scheme as the subject property. However, the panel held that it could only consider the valuation scheme Unit B1 had been placed in at this time.

17. The panel referred to Unit B1 and noted that even though the rent had commenced three months post of the AVD of 1 April 2015, it had been placed into a different valuation scheme, was documented as being older in age and smaller is size. Therefore, the panel placed little weight on this comparable property.

18. The panel noted that Unit B10, Broadlands Heywood Distribution Park had a lease which commenced on 18 February 2014 for a term of 10 years with a tenant break option at five years. This property was almost half the size of the subject property. However, the lease detailed for the comparable property confirmed a rent of £78,562.50 from 18 February 2014 to 17 May 2016 and then £157,125 for the two years of the first five years of the lease term. The panel found this rent unusual. Again, the property was within a different valuation scheme than the subject property and circa a third of its size.

19. The panel did not consider Unit M3, Mulberry, or Unit 3, Broadlands to be of assistance as they were both significantly different in age and size to the subject property.

20. The panel noted that none of the comparable properties presented by Mr Scorer had been within the same valuation scheme as the subject property. The valuation scheme that the subject property had been placed into represented properties-built post 1990. The comparable properties above were much older properties. Therefore, the panel placed little weight on the details of the comparable properties provided by Mr Scorer.

21. The panel turned its attention to the evidence provided by Mr Brown, which he contended supported the unadjusted base rate of £46/m^2 for the subject property.

Address	Valuation Scheme	Size ITMS (m²)	Unadjusted base rate (UAR)	VO analysed rent (m²)
**Unit P2, Parklands, Heywood Distribution Park*	*389507*	*8,917.10*	*£46.00*	*£60.86*
Spicers Ltd, Heywood Distribution Park	389507	8,004.20	£46.00	£47.13
Charles House, Pilsworth Road, Heywood	389507	7676.10	£46.00	£78.68
Unit H1 Heywood Distribution Park	389507	6668.05	£46.00	£49.00

**Subject property*

22. Mr Brown had also referred to Unit B9, Broadlands, Heywood Distribution Park, which was also in a different valuation scheme of 389319. This property was built in circa 1970's and measured 9,446.00 m² ITMS and had an unadjusted base rate of £42.50/m². The effective date of the rent was 23 June 2014, which analysed at £47.34/m². However, again the panel placed little weight on this comparable property, as although very similar in size it was older and in a different valuation scheme.

23. Of the comparable properties detailed above by the VO, the panel held that the most significant was Spicers Ltd. Mr Brown had informed the panel that the rent had commenced on 1 June 2015, just two months post AVD, even though this rent was a rent review, which analysed at £47.13, the property was similar in size and had been placed into the same valuation scheme. Therefore, the panel placed the most weight on the details of this comparable property.

24. The panel found that the appellant's representative had failed to produce any significant evidence to justify his argument for the lower base rate of £38.50/m². The panel attached more weight to the respondent's comparable properties due to size and age and determined that the established tone of the list was £46.00/m². The panel found that the only truly comparable property for it to base its decision on was Spicer Ltd, which was provided by the VO. It was similar in size, its rent commenced close to the AVD even though it was a rent review, was in the same scheme and its unadjusted base rate was the same as the subject property at £46/m².

25. The persuasive or legal burden of proof was on the appellant to prove his case. Unfortunately, the appellant's representative had failed to discharge this burden as there was no reliable substantive valuation evidence to support a case for a reduced base price and therefore, the appeal was dismissed.

Date: 20 September 2022

Appeal number: CHG100376517

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.