THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; Local Government Finance Act 1988; Base price rate per m^2 in dispute; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Valuation Scheme; Comparable assessments; Appeal dismissed.

RE: Thompson Tyre Services Ltd, Adj 99A North Street, Cannock, Staffordshire WS11 0AZ

APPEAL NUMBER: CHG100453074

BETWEEN:	Mr Tyre Limited	Appellant
	and	
	Mr Dal Virk (Valuation Officer)	Respondent

PANEL:	Mrs Nicola Yang	(Chair)
	Mr John Imperato	(Senior Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 2:	21 March 2023	
PARTIES PRESENT:	Mr Karl Hammond of Altus Group	Appellant's representative
	Ms Anna Herring	Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £29,250 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of the following: the appellant was the ratepayer of the appeal property at Thompson Tyre Services, Adj 99A North Street, Cannock, Staffordshire WS11 0AZ. It was a single storey vehicle repair workshop and premises built between 1965 – 1970 and had an RV of £29,250 with effect from 1 April 2017.

3. Through the Check, Challenge, Appeal (CCA) process the appellant's representative proposed that the RV be reduced to £14,750 with effect from 1 April 2017.

4. The valuation officer (VO) stated that the proposal was not well-founded and disagreed with the proposed alteration to the list.

5. The appellant appealed to the Valuation Tribunal (VT) against the RV of £29,250.

6. The appeal property was originally entered into the 2017 Rating List with an RV of £29,750. Following check proceedings it was reduced to £29,250.

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.

8. Mr Karl Hammond appeared on behalf of the appellant as expert witness and advocate. 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. 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.

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 it saw fit.

Issue

10. The RV of the appeal property.

Evidence and submissions

11. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the valuation officer's (VO) case decision notice, rental evidence and assessment summaries and the appellant's challenge submission.

12. The appellant's representative had stated that the property had been bought freehold in 2011 and therefore there was no passing rent.

Decision and reasons

13. The panel referred to the Local Government Finance Act 1988 in respect of the definition of rateable value in paragraph 2(1), Schedule 6 to the Act (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…….–"

14. 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.

15. The material day for this appeal was 1 April 2017.

16. The panel noted that there was no rent on the appeal property due to it having been bought freehold in 2011 and found that any rental agreements prior to that date were too far removed from the AVD to be of use in its valuation.

17. The panel therefore had regard to the authoritative and binding Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 which stated:-

    "(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."

18. However, no properties were submitted by either party in terms of their rental assessments and the panel noted that the appellant's representative had stated that the appeal property was simply in the wrong scheme.

19. The panel was aware that the VO groups similar properties together into a scheme giving them a price range for floor areas and units and this helps to make RV's fair and consistent.

20. The VO had placed the appeal property in scheme 353385 applicable to tyre and exhaust centres in the Wolverhampton, Walsall and Cannock billing authority areas. Properties in this scheme have a base price range between £30/m^2 to £90/m^2 for the main floor area of the property. The appeal property had been valued at a base price of £60/m^2.

21. The appellant's representative had proposed that valuation scheme 311289 was more appropriate as it valued properties with a base price range between £19.00/m^2 to £57.00/m^2. He proposed a base price of £30/m^2 giving an RV of £14,750. He had also submitted a property at Unit 7B Progress Drive as one in the 311289 scheme as comparable to the appeal property.

22. However, the panel found that scheme 311289 was applicable to industrial properties built between 1955 and 1970 in Cannock Chase billing authority area and therefore that it was not a more appropriate scheme for the appeal property.

23. The respondent VO had submitted a range of properties including Rugeley Tyre and Battery Service, Kwik Fit, Automotive Tyre Services (ATS) Midlands and the National Tyre Service Ltd in Cannock that were in the same scheme as the appeal property. The panel found that these properties were similar to the appeal property and the scheme description suitably appropriate.

24. The appellant's representative had also submitted that the VO had placed the appeal property in Type A of the 353385 scheme when type D or E was more appropriate where it would be valued at a lower rate.

25. However, the panel noted that this was incorrect as the respondent VO advised that the appeal property was actually in type C. The panel noted that type C covered a considerable range of properties including "older purpose built or converted from retail or industrial building" and that "local knowledge and site appraisal will play a major role in determining the relative position within this wide band of values".

26. The respondent VO had stated that the appeal property had been bought as a tyre centre and continued to be a tyre centre. She had also taken advice from the occupiers of other premises within the locality of the appeal property to help determine its valuation.

27. The panel found that this approach supported her contention that the property was in the correct valuation scheme.

28. In cases of this nature the onus is on the appellant to prove that the valuation of the appeal property was excessive and offer evidence supporting such a contention. The panel found that no such evidence had been provided and that the valuation at £60/m^2 was the correct value under the tyre and exhaust centre scheme and therefore that the RV of £29,250 with effect from 1 April 2017 was fair and reasonable.

29. The appeal was therefore dismissed.

Date: 19 April 2023

Appeal number: CHG100453074

Rights of appeal

Any party who is aggrieved by the Tribunal's decision 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.