THE VALUATION TRIBUNAL FOR ENGLAND

*2017 rating list appeal; warehouse and premises; valuation schemes; location; comparable properties; tone of the rating list; appeal dismissed*

RE: Pentagon Tiles Distribution Ltd, Harolds Road, Harlow, Essex, CM19 5BJ ("the subject property")

APPEAL NUMBER: CHG100535211

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| BETWEEN: | Pentagon Tile Distributors Ltd | Appellant |
| | and | |
| | Jo Moore (Valuation Officer) | Respondent |

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| PANEL: | Ms C Jones (Senior Member)<br>Mr S M Hooberman |
| CLERK: | Mrs A Sloan |
| HEARING: | Remote hearing No.1 on 10 January 2023 |
| APPEARANCES: | Mr M Clayton of Altus Group (for the Appellant)<br>Mr S Mann (Respondent's representative) |

## Summary of decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) of £123,000 with effect from 1 April 2017.

## Introduction

2. This appeal was lodged on 25 February 2022 to challenge the Valuation Officer's (VO) decision notice of 14 January 2022, which refused to reduce the entry in the valuation list from £123,000, effective from 1 April 2017. The appellant's representative considered this valuation to be excessive and sought a reduction to £93,000.

3. The subject property is an industrial unit built in 1960 and located within the Pinnacles industrial area, to the West of Harlow. It is of concrete construction with external brick cladding and aluminium framed glazed curtain walls and a flat felt covered roof. The building measures 2,479.40m$^2$ with 28 car parking spaces and 442.40m$^2$ of hard surfaced fenced land. The facts and survey details were agreed between the parties.

4. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

**Issue**

5. The issue before the panel was the accuracy of the entry shown in the 2017 rating list for the subject property.

**Evidence and submissions**

6. Mr Clayton was acting in a dual role as both advocate and expert witness for the appellant. He declared that he understood and accepted that his duty was to the Tribunal in giving evidence, regardless of any conditional fee. Mr Mann stated he was also acting as both advocate and expert witness for this appeal.

7. The panel was supplied with the evidence exchanged following the proposal to alter the valuation list and the VO's decision notice concluding the challenge discussions. Mr Mann asked the panel to dismiss the appeal and confirm the existing RV of £123,000, with a main space price of £45.15/m$^2$ (£47.50/m$^2$ unadjusted). Mr Clayton asked the panel to reduce the entry in the list to £93,000 RV from 1 April 2017, with the main space rate valued at £33.27/m$^2$ (£35/m$^2$ unadjusted).

8. Mr Clayton referred to a recent VTE decision from September 2022 in respect of Akhter House, Perry Road, Harlow (appeal CHG100569329). As this was not considered new evidence and the case was decided after the subject appeal was lodged, the panel noted the decision, which was not binding on it.

**Decision and reasons**

9. 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;*

   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."*

10. 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. The material day (the date by which physical factors have to be taken into account) was 1 April 2017.

11. Mr Clayton was of the opinion that the main space price for the 2017 list valuation was excessive and referred the panel to the November 2016 VTE decision on the subject property, when the tribunal panel allowed the appeal against the entry in the 2010 list. On that occasion, the panel decided that the correct main space price for the subject property was £35/m$^2$ and the RV was reduced to £93,000 from 1 April 2010. He also referred to the following comparable properties, where the main space price in the 2017 list had been agreed at £35/m$^2$.

| Address | 2010 £/m$^2$ | Original 2017 £/m$^2$ | Agreed 2017 £/m$^2$ |
|---|---|---|---|
| Pentagon Tiles Distribution, Harolds Road, Harlow CM19 5BJ * | £35.00 | £47.50 | - |
| European Watercare, Regal House, South Road, Harlow CM20 2BD | £35.00 | £37.34 | £35.00 |
| 1-2 South Road, Harlow CM20 2AR | £35.00 | £36.50 | £35.00 |
| Building 62 West Road, Harlow CM20 2BG | £35.00 | £36.50 | £35.00 |
| Lyden House, South Road, Harlow, CM20 2BG | £35.00 | £36.50 | £35.00 |
| Kenrich (Quality) House, Elizabeth Way, Harlow, CM19 5TL | £35.00 | £37.02 | £35.00 |

*Subject property

12. Mr Clayton contended that the subject property's valuation was not in line with similar properties in the locality. It has been valued under scheme 354260 which relates to industrial or storage assessments built in the 1950s-60s in Horsecroft Road, Barrows Road (excluding New Horizons Business Centre), Harolds Road and Elizabeth Way, Pinnacles industrial area. He stated that there is no difference in terms of age, quality or specification for properties in this scheme when compared with scheme 354232. That scheme covers industrial and storage units built in the post-war period up to 1979 in Central Road, West Road, South Road (including South Place, but not Oakwood Estate), East Road and Edinburgh Way (including Edinburgh Place), Templefields industrial area. Mr Clayton contended that the VTE panel deciding the 2010 list appeal found that the subject property should be valued at the same rate as those elsewhere in Harlow and those same properties have now been agreed in the 2017 list at £35/m$^2$, meaning a nil increase from the previous list.

13. Particular attention was drawn by Mr Clayton to the example of Quality House, a building almost identical to the subject property and located nearby. Mr Mann contended that this property was incorrectly valued in the Templefields scheme (354232) when it was located on the same estate as the subject property and should be in scheme 354260 for the Pinnacles industrial area. Mr Clayton pointed out that the price adopted for Quality House was reduced

to £35/$m^2$ in the 2017 list whilst it remained in the current scheme. At the hearing, Mr Mann confirmed that, despite his assertions that Quality House was in the wrong scheme, the list had not been amended. Mr Clayton highlighted that the decision notice issued in January 2022 alleged the building was valued in the wrong scheme and Mr Mann confirmed he had been the case worker for this appeal for several months, yet the list entry for Quality House remained unaltered.

14. Mr Mann confirmed that the VO had a duty to maintain an accurate list and errors identified should be corrected. He maintained that the valuation for Quality House needed to be altered to a main space price of £40/$m^2$, but he had decided to wait until after this appeal had been heard before making the changes. Mr Clayton stated that he considered the valuation for Quality House should be taken as it was entered in the list on the day of the hearing and the VO was impugning the rating list by stating the valuation was an error.

15. The panel noted Mr Mann's comments but agreed that he was impugning the list by alleging an error and not correcting it. The correct course of action would be to correct any errors identified before the hearing. Therefore, the panel accepted that the entry in the list for Quality House should be taken as it was shown in the list on the hearing day.

16. In support of the existing valuation for the subject property, Mr Mann provided the panel with alternative properties for comparison. He confirmed that these properties were all within the Pinnacles estate and therefore valued on the same scheme as the subject property in the 2017 rating list.

| Address | Size ($m^2$) | Rateable Value | Main space £/$m^2$ |
|---|---|---|---|
| Vibroplant PLC, Flex Meadow, Harlow, CM19 5TJ | 2006.79 | £169,000 | £49.83 |
| Pentagon Tiles Distribution Ltd, Harolds Road, Harlow, CM19 5BJ* | 2479.40 | £123,000 | £45.15 |
| 4 Barrows Road, Harlow, CM19 5BB | 4631.92 | £218,000 | £42.50 |
| International House, Horsecroft Road, Harlow CM19 5SX | 8743.08 | £352,500 | £40.00 |

*Subject property

17. Mr Mann stated that the Vibroplant assessment was agreed in the 2010 list at £44.85$m^2$. The appeal in respect of 4 Barrows Road against the 2010 list entry (based on 37.50/$m^2$) was withdrawn and no challenge was made against the 2017 list valuation based on £42.50/$m^2$. The much larger International House, located opposite the subject property, was valued at £35/$m^2$ in the 2010 list, to reflect its size compared to others in the scheme. No appeal was received against either the 2010 or 2017 list entries. Mr Mann considered the main space price at £45.15/$m^2$ for the subject property sat within the range of values for similar properties on the same estate and was not unreasonable.

18. The panel had regard 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.

19. No details were provided of any rent passing on the subject property, so the panel found that this appeal must be decided by comparison with other similar properties in the locality.

20. Mr Mann contended that the properties relied upon by Mr Clayton for comparison were largely in a different location (and therefore a different valuation scheme) and were not comparable in size, being much bigger than the subject property. The panel noted the sizes from the valuations included in the evidence pack – Regal House (3,643.37m$^2$), 1-2 South Road (3,203.32m$^2$), Building 62 West Road (3,665.21m$^2$), Lyden House South Road (5,120.56m$^2$) and Quality House (3,924.57m$^2$). Mr Clayton acknowledged these examples were larger than the subject property (2,479.40m$^2$) but contended the effects of quantum levelled out over a certain size and he felt the tone for larger industrial buildings in Harlow was £35/m$^2$. The panel noted the comments of both parties but found that two of Mr Mann's three comparable properties were much larger than the subject property as well. It accepted there was no comparable property of the same size as the subject property, but all evidence must be considered.

21. Mr Clayton contended that his comparable properties carried more weight because they had all been the subject of settlements and the VO's comparable properties only had agreements for the 2010 list.

22. The panel placed little weight on the VTE decision in respect of the 2017 rating list appeal for Akhter House. This property was in a different location to the subject property and therefore a different valuation scheme (355206). The panel on that occasion agreed that Akhter House could be compared to the buildings on the Templefields industrial area and found that the area designated an Enterprise Zone would have an effect on rents. The panel found that Akhter House was not comparable to the subject property as it was in a different locality and valuation scheme and was over 500m$^2$ larger at 3,155.53m$^2$.

23. After considering all of the evidence available, the panel was not persuaded that Mr Clayton had proved his case for a reduction in RV on the subject property. It considered that most of the comparable properties referred to in support of the appellant's case were in a different locality. The Pinnacles industrial area, where the subject property is situated, is to the West of Harlow. The Templefields industrial area, where most of Mr Clayton's examples are situated, is to the East of Harlow, some three miles away. The panel found that each industrial area would have its own market, which would reflect not just the buildings but also the location and its access or proximity to transport links. The panel held that each rating list must be considered de novo and so little weight was placed upon the VTE decision in respect of the 2010 list entry for the subject.

24. Having decided to disregard the properties in the Templefields area, the panel examined the evidence available for the Pinnacles industrial area. Mr Clayton placed most weight on the example of Quality House, which he stated was nearby and of the same style and construction as the subject property. The panel noted that Quality House was nearly 1,500m$^2$ larger than the subject property. Whilst it considered Mr Mann was impugning the valuation list by alleging this property was valued in the wrong scheme and not correcting it, the panel accepted that its valuation at £35/m$^2$ seemed out of kilter with the tone of values in the locality. It therefore placed little weight on this outlier and considered the remaining properties. The panel noted that there was no evidence of any other property valued at

£35/m$^2$ in the Pinnacles industrial area. Even allowing for quantum, the much larger International House was valued at £40/m$^2$.

25. The panel found that the closest in size to the subject property, of all the comparable properties presented, was the Vibroplant assessment. Valued at £49.83/m$^2$ and being nearly 500m$^2$ smaller than the subject property, this assessment did not suggest the subject property's valuation was excessive. The lower rate for 4 Barrows Road and International House reflected their larger sizes.

26. The burden of proof in this appeal lay with Mr Clayton to satisfy the panel that the current entry for the subject property in the list was unreasonable. After considering the evidence presented, the panel found that the existing entry at £123,000 was not unreasonable and confirmed this rateable value from 1 April 2017. The appeal was therefore dismissed.

**Date:** 6 February 2023
**Appeal number:** CHG100535211

**Appeal Rights**

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.