THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Base Rate; End allowances; Appeal dismissed.

Re: 2 Wortley Moor Lane, Leeds LS12 4JD

APPEAL NUMBER: CHG100552404

BETWEEN:	Trent International	Appellant
	and	
	Ms Amanda Hutchings (Valuation Officer)	Respondent

PANEL:	Mrs Ann Fielder	(Presiding Senior Member)
	Mr Matthew Wyard	(Senior Member)

CLERK:	Mr Duncan Adamson IRRV (Hons)
REMOTE HEARING 4:	5 January 2023
PARTIES PRESENT:	Mr Charlie Diamond of Altus Group representing the appellant
	Mr Jack Stancer representing the Valuation Officer

Summary of decision

1. The appeal was dismissed. The rateable value (RV) of the hereditament was confirmed as £50,000 with effect from 1 April 2017.

Introduction

2. This 2017 compiled list appeal had been brought in respect of the property at 2 Wortley Moor Lane, Leeds LS12 4JD occupied by Trent International. The rateable value was £54,000 with effect from 1 April 2017 on a base rate of £40/m^2. The appellant's representative sought for the base rate to be reduced to £30/m^2 thus reducing the RV to £41,000.

3. Having considered the appellant's rebuttal the Valuation Officer (VO) decided to reduce the RV by a further 8%. This had been agreed for the 2010 valuation list. The RV under appeal was now £50,000.

4. The property was a factory and premises and the appellant had been in occupation of the property since 2004.

5. This is not intended to be an exhaustive record of the proceedings. Consequently, the absence of a reference to any statement or item of evidence should not be construed as it having been overlooked.

Issues

6. The base rate and RV of the hereditament.

Evidence and submissions

7. The evidence bundle submitted by the respondent comprised of all of the documents exchanged between the parties as part of the challenge process, the VO's challenge case decision notice and the appellant's challenge submission.

8. The appellant's representative stated that the valuation of the appeal property did not reflect the rental value of the appeal property at the antecedent valuation date (AVD) of 1 April 2015.

9. The rent on the property was £60,000 p.a. however, the Directors of the company were the freehold owners and, on this basis of being connected parties, the rent could not be relied upon. This was in line with the authoritative case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

10. The appellant's representative had submitted properties comparable to the appeal property in order to assist in its valuation. These properties were in the same valuation scheme as the appeal property:-

    Unit 5A, Silver Royd Business Park. This was an open market rent on 1 June 2014, less than one year before the AVD. The unadjusted rate, when analysed, was £32.79/m^2 and this supported a reduction of the RV.

    JP Office Furniture. Again, a new open market rent effective from 11 May 2016, just over one year after the AVD. The unadjusted rate when analysed was £27.79/m^2 and again supported a reduction of the RV.

    Block F, Geldard Close. Again, a new open market rent effective from 9 October 2014, only 6 months prior to the AVD, for a property of a very similar size to the appeal property, whose rent analysed to £33.21/m^2.

11. In the light of these comparable properties the appellant was now seeking a reduced RV of £46,500 on a base rate of £34/m^2. He was happy to disregard the 8% end allowance given in the 2010 list and currently a part of the 2017 valuation.

12. He further stated that the comparable properties chosen by the VO were not useful in the appeal property's valuation. Block E, Geldard Close was a connected party rent as the

landlord was an active director of the company. 101/103 Wellington Road was much smaller than the appeal property and the rent was an outlier. Units 3 & 4, Low Mills Road was also an outlier rent and the occupier had been in the property since 2006 with the same rental arrangements.

13. The VO representative submitted that the 8% allowance should still be applied and also that the current base rate of £40/m^2 was appropriate. In his opinion, although the rent on the appeal property was between connected parties it was still significant in its valuation.

14. He stated that there had been conflicting information in respect of the rent for JP Office Furniture as the Stamp Duty Land Tax (SDLT) data had stated that the rent was £61,500 and this analysed to £40.46/m^2, supporting the current valuation of the appeal property.

15. Block F, Geldard Close was a rent review and analysed at £37/m^2 however, as this was not an open market rent, he stated that it should be given lower weight.

16. For Unit 5A he contended that the rent of £33,000 had been the same since 1999 and was not reliable as it was set between connected parties. No weight should be given to this evidence.

17. He further stated that the rent on Block E, Geldard Close was not between connected parties as the landlord was CHS vehicles and this was different to the tenant occupier. The analysed rent of £43.30/m^2 supported the current valuation of the appeal property.

18. The rent on 101/103 Wellington Road analysed at £62.34/m^2, a value well above the £40/m^2 of the appeal property rate which was therefore reasonable. He gave a similar argument for Units 3 & 4 for which the analysed rent was £56.18/m^2.

19. He stated that the majority of the property, the workshop, was actually currently valued at £33.23/m^2, a value well below the £40/m^2 mark.

20. In summary he stated that the property should maintain the end allowances of 5% for location, 8% to be consistent with the 2010 valuation list and 4.94% for plant and requested that the RV of £50,000 be confirmed.

Decision and reasons

21. The panel referred to the Local Government Finance Act 1988. The term 'rateable value' being defined in paragraph 2(1), Schedule 6 to the Act:

> "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 –"
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> 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. In reaching its decision, the panel had regard to the Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This case had established six propositions giving clear guidance to be followed when assessing rateable value, namely:

(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(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.

24. The panel found that the rental evidence in respect of Units 3 & 4, Low Mills Road was good evidence for the appeal property's current valuation as the property was similar in size to the appeal property, the lease was in 2016 and so not too far from the AVD and the rent, when analysed to £56.18, being considerably higher than the appeal property, meant that £40/m^2 for the appeal property was reasonable.

25. The panel were not convinced that the properties submitted by the appellant supported a reduced valuation of the appeal property. Their unadjusted rate was above the £40/m^2 unadjusted rate of the appeal property.

26. The panel found that the appellant’s case had not been proven. 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.

27. The panel found that the base rate used in the calculation of the appeal property’s RV of £40/m^2 was fair and reasonable and confirmed the RV of £50,000 with effect from 1 April 2017.

28. The appeal was therefore dismissed.

Date: 10 January 2023

Appeal number: CHG100552404

Rights of appeal

Any party who is aggrieved by the Tribunal’s decision has the right of appeal to the Upper Tribunal on a question of law. Any such appeal should be made within four weeks of the date of this decision notice.