THE VALUATION TRIBUNAL FOR ENGLAND

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

RE: Switchgear and Instrumentations Ltd, Ripley Road, Bradford, West Yorkshire BD4 7EU

APPEAL NUMBER: CHG100568982

BETWEEN:	Powell (UK) Limited	Appellant
	and	
	Ms Jo Moore (Valuation Officer)	Respondent

BEFORE:	Mrs Amanda Adeola	(Chair and Senior Member)
	Mrs Fiona Duggan	(Senior Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 1:	10 July 2023	
PARTIES PRESENT:	Mr Colin Webster	
	of ALTUS Group	Appellant's representative
	Ms Susan D'Arcy	Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £357,500 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of the following: the appellant was the non-domestic rates payer of the appeal property at Switchgear and Instrumentations Ltd, Ripley Road, Bradford, West Yorkshire BD4 7EU.

3. The appeal property was a two bay factory and office premises situated at the south end of the largely industrial area of East Bowling, Bradford. The original factory dated from the late

1960’s but was extended in 1991. The appeal property was valued at a main space rate of £25/m^2 with the extension valued at £33/m^2.

4. Through the Check, Challenge, Appeal (CCA) process the appellant proposed that the appeal property be valued at a revised rate of £16.50/m^2 on the 1960’s building and £22/m^2 on the extension. This would give rise to an RV of £241,500 with effect from 1 April 2017.

5. The challenge was completed on 14 April 2022 and the valuation officer (VO) determined that the proposal was not well-founded. The appellant appealed to the Valuation Tribunal on the grounds that the rating assessment on the appeal property was not in line with assessments on comparable properties in the locality, taking into account the differences in the physical attributes between the properties.

6. Mr Colin Webster 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.

7. 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.

8. 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.

Preliminary Issue

9. The main argument for the appellant was that there had been several settlements on large industrial premises showing a fall in values. At the start of his presentation, he proposed a further two settlements as new evidence for his case. He stated that he had emailed this evidence to the respondent’s representative and to the tribunal on 3 July.

10. The clerk to the tribunal advised the panel during the hearing that it had not been received, however, on investigating the matter, later advised the panel that it had been received but allocated to a completely different case file that had been mistakenly specified by the appellant’s representative.

11. The respondent’s representative stated that she had received the new evidence but had not reviewed nor considered it and did not want it to be accepted into the hearing as it was outside of the standard disclosure procedures.

12. The panel noted that any evidence must be submitted four weeks before a tribunal hearing unless there were very good reasons as to why it had not. The burden was on the appellant’s representative to explain what happened and why, however, no reasons were given.

13. The panel found that the new evidence did not comply with the tribunal's standard directions, no good reasons had been given for its late submission and the VO could be prejudiced by its admission. For these reasons, it was rejected.

Issue

14. The RV of the appeal property.

Evidence and submissions

15. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, assessment summaries and the appellant's challenge submission.

Decision and reasons

16. 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). 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.

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

18. The panel referred to the hierarchy of rental evidence that should be used to determine the RV of the appeal property as detailed in the authoritative and binding Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. In addition, the RV's of other comparable properties should be considered.

19. The panel was presented with a variety of properties in the 2017 rating list as comparable to the appeal property where the unadjusted rate and therefore the RV had been revised downwards through the CCA process.

20. The appellant's representative stated that three properties were significant for the appeal property assessment, Lassic Ltd on Dawson Lane, Unit 1 on Riverside Business Park and Vacant Distribution in Shelf Mills. He stated that all three were comparable to the appeal property extension, valued at a rate of £33/m^2 and had had the unadjusted rate reduced for a variety of reasons.

21. Lassic Ltd had been reduced as there were restricted site issues and access to the site was shared with other large industrial occupiers. It also had limited yard area and car parking. A 14% end allowance had been given in respect of the site issues.

22. In comparison, the panel found that the appeal property had its own site and sole access to two entrances on Ripley Road and Bowling Park Drive. There was ample car parking space between the premises and Bowling Park Drive and, in general, the site was well laid out and relatively spacious.

23. Unit 1 on Riverside Business Park had shared access to the site and was very restricted with parking and loading at the front of the unit, was some distance north of Bradford being approximately one hours drive away and was not close to the motorway network. The rate had been reduced by an end allowance of 5% for a sloping floor.

24. The panel found that it was not comparable to the appeal property mainly because of its layout and location. The appeal property did not suffer from a sloping floor.

25. Vacant Distribution in Shelf Mills was approximately half the size of the appeal property and was in Halifax which was, again, some distance from it and the motorway network.

26. The panel found that the appeal property was superior in terms of location.

27. The panel found that Barwick of Bradford was similar to the appeal property in terms of size, location and access to the motorway network, however, access to the site was through a residential road and was shared. There were also restrictions in terms of parking and loading and this made it less comparable to the appeal property.

28. Overall, the panel found that the appeal property was superior to the comparable properties submitted by the appellant's representative in terms of location, access and layout. Whilst he had provided some evidence in respect of the extended part of the appeal property, he had not provided any evidence to support a reduction in the rate of the older and larger part of the appeal property.

29. The panel found that it had not been provided with sufficient evidence to demonstrate that the appeal property should be valued at a lower rate and therefore dismissed the appeal. The RV was confirmed as £357,500 with effect from 1 April 2017.

Date: 31 July 2023

Appeal numbers: CHG100568982

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.