THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Workshop and premises; accuracy of rateable value; found that weight of evidence did not support a reduction in the assessment of the subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed

RE: Garcross Engineering, Pepper Road, Leeds, LS10 2RU

APPEAL NUMBER: CHG100577134

BETWEEN:	Garcross Engineering Limited (Represented by Altus Group)	Appellant
	and	
	Amanda Hitchings (Valuation Officer)	Respondent

PANEL: Mrs A E Fielder (Senior Member)
Dr P A R Thomson
CLERK: Mr James Massey
REMOTE HEARING: 19 January 2023

APPEARANCES: Mr C Diamond of Altus Group – advocate and expert witness for the appellant.
Ms I McCully for the Valuation Officer.

Summary of decision

1. Appeal Dismissed. The panel determined the Rateable Value (RV) of Garcross Engineering, Pepper Road, Leeds, LS10 2RU ("the subject property") at £50,000 with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. The subject property had been entered in the 2017 Rating List as 'Workshop and Premises' at an RV of £55,000 with effect from 1 April 2017. As this was a compiled list appeal the material day was 1 April 2017.

3. The challenge proposal was submitted by Altus Group on behalf of Garcross Engineering Limited and was received by the Valuation Officer (VO) on 1 February 2021. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong and proposed a revised RV of £44,250 with effect from 1 April 2017.

4. The VO issued a challenge case decision notice on 28 April 2022. The VO's decision was that the appellant's challenge was not well-founded but proposed a revised RV of £50,000.

5. The subject property was located on Pepper Road approximately three miles south of Leeds city centre. It was constructed between 1955 and 1964. Its total area of 1,663.58m^2 comprised a ground floor workshop and ancillary first floor space, 293.3m^2 of which consisted of an extension built in 2009. The rate applied to the area of the extension reflects its higher quality and is not under dispute in this appeal.

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

Issue

7. The issue between the parties concerned the RV of the subject property, specifically, the rate per m^2 that should apply. Mr Diamond, for the appellant, sought a reduction to £45,750 RV based on an unadjusted rate of £33.00 per m^2. Ms McCully, for the VO, defended the revised assessment of £50,000 RV, which was based on the revised unadjusted rate of £38.44 per m^2. The proposal had also requested that the 5% allowance for access applied to the older workshop area should be applied to the whole hereditament. The respondent agreed that the access issue affects the whole hereditament and therefore applied a 5% reduction to the revised unadjusted rate of £38.44 to achieve the revised RV of £50,000.

8. All relevant factual information regarding the subject and comparable properties, including their areas, was not disputed by the parties.

Evidence and Submissions

9. Mr Diamond appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Diamond declared at the hearing that he was instructed under a conditional fee arrangement. He also 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.

10. 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.

11. Ms McCully appeared on behalf of the respondent as both advocate and expert witness and in her declaration of truth included a statement that she was not instructed under any conditional fee arrangement. Ms McCully declared that she understood and accepted that her duty was to the Tribunal in giving her evidence and her report complies with this as well

as the requirements of her professional body regardless of whether or not the evidence supported the VO’s case.

12. Mr Diamond contended that the current assessment on the subject property at £38.44 per m^2 was excessive based on the assessment of the appeal property in the 2010 rating list at £32.50 per m^2 and referred to a number of industrial units in LS10 & LS12 where the unit rate had stayed the same between the two lists or had subsequently been agreed at a lower level in the current list.

13. He provided a list of comparable properties in the locality which had been assessed at between £40 and £45 per m^2. He considered that three of these were more modern than the subject property.

Address	Area (m^2)	Age & Valuation Scheme	Rent & Effective date	Effective rent	Analysed rent (£/m^2)	Unadjusted rate (£/m^2)
Unit 8, Westland Square, Leeds, LS11 5SS	975.65	1955-70 396579	£40,000 1 August 2014	£36,600	£33.07 (VOA £38.86)	£42.00
Unit A2 Union Works, Leathley Road, Leeds, LS10 1BG	1601.35	1955-70 396579	£57,850 1 April 2014	£54,746	£36.71	£42.00
Unit 15-17, Lenton Drive, Leeds, LS11 5JW	975.02	1970s 399248	£44,200 28 February 2015	£33,325	£34.00	£45.00
11 Hudswell Road, Leeds, LS10 1AG TSA	890.87	1970s 393609	£42,800 28 February 2013	£30,938	£33.85 (VOA £34.97)	£40.00
Gemini Accident Repair Centre 1, Pym Street, Leeds, LS10 1PG TSA	1327.99	1970s 393609	£62,500 15 July 2014	£43,532	£33.52 (VOA £33.65)	£40.00
8, Butterley Street, Leeds, LS10 1AW	1331.54	1970s 393609	£35,350 1 February 2015	£35,350	£31.90 (VOA £33.65)	£40.00
Unit B Union Works, Leathley Road, Leeds, LS10 1BG	1061.10	1970s 393609	£38,600 1 March 2016	£38,600	£36.60	£40.00

14. Ms McCully considered that the revised rate of £38.44 applied to the subject property was reasonable, based on the rents achieved on similar industrial properties in the locality close to the AVD, and referred to the following schedule of rental evidence:

Address	Area (m^2)	Valuation Scheme	Rent & Effective date	Effective rent	VO Analysed rent (£/m^2)	Unadjusted rate (£/m^2)
Unit 5, Crescent Works, 301 Dewsbury Rd, Leeds, LS11 5LQ	957.38	1955-70 396579	£36,123 2 June 2015	£36,123	£40.73	£42.00
Van Line Ltd, Beza Road, Leeds, LS10 2BR	1583.46	1955-70 396579	£60,000 3 March 2015	£60,000	£40.63	£42.00
Unit 3 at 17 Carlisle Road, Leeds, LS10 1LB	1220.63	1955-70 396579	£39,000 1 January 2016	£39,000	£43.35 (App £34.33)	£42.00
Personnel Hygiene Services Ltd, Westland Square,Leeds, LS11 5SS	1031.13	1970s 396579	£50,656 1 April 2015	£50,656	£52.67 (App £45.19)	£38.50

15. In support of the revised rate of £38.44 per m^2 for the subject property, she also referred to the recent settlements in respect of 10 Hudswell Road and 11 Hudswell Road, LS10 1AG which had been agreed at £40 per m^2.

Decision and reasons

16. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be ‘vacant and to let’ and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

17. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)and Leicester City Council* [1976] RA 141, as referred to by the Respondent. This case had established six propositions, which gave 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 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 1976 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 subject property, 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. The panel is aware that, following the propositions set out above, the rent on the subject property should be a starting point. It noted that the freehold of the subject property is owned by the appellant and so turned to the comparable properties they had each provided.

19. Mr Diamond had made comparisons between the assessments of the subject property and others between the 2010 rating list and the current rating list, arguing that the increase between the two lists for the subject property was not consistently applied to other comparable properties. The panel was aware that the compilation of each rating list is dependent on the prevailing economic climate at their respective AVDs and the rental evidence around those dates. It was therefore unable to place any weight upon this argument.

20. The panel noted that the comparable properties provided by both parties consisted of industrial units located south of Leeds City Centre within reasonable proximity of the M621 motorway. They were all constructed either between 1955 and 1970 or in the 1970’s and had been placed in relevant valuation schemes to reflect their age and location. The panel had not been provided with details of the valuation schemes, however from the rental evidence provided by the parties, it could not determine that the difference in age had a significant effect on value.

21. Of the VO’s comparable properties, three were similar in age to the subject property and their rents, agreed between 3 March 2015 and 1 January 2016, had been analysed by the VO to between £40.63 and £43.35 per m^2. The panel considered that their rents supported their unadjusted rate of £42 per m^2. Whilst two of these properties were smaller than the subject property one, Van Line Ltd, Beza Road was similar in size to the subject property

and its rent had been analysed by the VO at £40.63. Whilst the appellant had argued that the rent on Van Line was unreliable as it was between connected parties, the panel considered that it was in line with the other rents on similar properties and supported the assessment of this property at £42 per m^2.

22. The panel noted that the rent for Personnel Hygiene Services Ltd, Westland Square, had been agreed on the AVD and had been analysed by the appellant at £45.19 per m^2 whilst the respondent had analysed this rent at £52.67 per m2. Although this unit was smaller (1031.13m2) and was more modern, the panel considered that its rent, even at the lower figure calculated by the appellant, supported the rate of £38.44 applied to the subject property.

23. The appellant's representative had referred to several rents on industrial properties, however the panel noted that of these, only two had been agreed close to the AVD - Unit 15-17, Lenton Drive and 8, Butterley Street. These were both built in the 1970s and were smaller than the appeal property. Their rents had been analysed to £34 per m^2 and £31.90 per m^2 respectively by Mr Diamond although the respondent had analysed the rent for 8, Butterley Street at £33.63 per m^2. Whilst on their own these two rents would appear to indicate that the subject property had been over assessed at £38.44 per m^2, taking into account the basket of rental evidence submitted and the weight applied to those agreed closer to the AVD, the panel did not consider this assessment to be excessive.

24. From the basket of rental evidence provided by the respondent the panel was satisfied that the current assessment of the subject property at £38.44 per m^2 was reasonable and the appellant had not provided any evidence of rents or assessments to persuade the panel that it was excessive. It therefore confirmed the current entry in the list for the subject property at RV £50,000.

25. The appeal is therefore dismissed.

Date: 9 February 2023
Appeal number: CHG100577134

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.