THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal (2017 list); Local Government Finance Act 1988; Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

RE: Plot 1a Royal Portbury Dock Road, Portbury, Bristol BS20 7DE

APPEAL NUMBER: CHG100611407

BETWEEN: Cazoo Limited Appellant

and

The Valuation Officer Respondent

PANEL: Mrs A Adeola (Presiding Senior Member)
Mr S Levy (Senior Member)

CLERK: Mr A Johnson Tech IRRV

ON: 15 May 2023

APPEARANCES: Mr S Plowman of Altus Group (for the Appellant)
Mr J Stamper (for the Respondent)

REMOTE HEARING CONDUCTED VIA MICROSOFT TEAMS

DECISION AND STATEMENT OF REASONS

Regulations 36 and 37 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

Summary of decision

1. This appeal was dismissed. The panel was satisfied that the rateable value (RV) of the subject property was reasonable. Consequently, the RV remained unchanged at £480,000 with effect from 30 July 2018.

Introduction

2. This decision notice is not, and does not purport to be, a verbatim record of the proceedings. The absence of a reference to any statement or item of evidence should not be construed as it having been overlooked.

3. This appeal had been brought pursuant to regulation 13A of the Non-Domestic (Alterations of Lists and Appeals) (England) Regulations 2009. The subject property is located at the Royal Portbury Dock close to the M5 motorway. It entered the 2017 non-domestic rating list with effect from 30 July 2018 as 'land used for storage and premises' measuring 39,916.23m^2.

4. The Appellant's proposal had sought alteration to the 2017 non-domestic rating list on the grounds that the RV for the subject property from 30 July 2018 was not reasonable. The RV was £480,000 and the Appellant was seeking a reduction to £430,000. The Appellants had challenged the Valuation Officer's (VO) decision that their proposal was not well-founded.

5. Mr Plowman appeared on behalf of the Appellant as advocate and expert witness who declared that he was representing the Appellant on a contingency fee basis. Mr Plowman acknowledged and understood that, when presenting evidence as an expert witness, his duty was to the Tribunal regardless of whether or not the evidence supported the Appellant's case.

6. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO0* [2018] UKUT (LC), the panel accepted the expert witness evidence on the above basis as the appeal was not considered to be 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 concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

7. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

Issue

8. The only issue in dispute was the quantity of hard surfaced land which should be included within the subject assessment. The VO contended that 34,047.05m^2 was correct whilst the Appellant contended that 27,335m^2 was correct. The rate of this area was not in dispute and had been agreed between the parties at £7.50 per m^2. The difference of 6,712.05m^2 was therefore valued at £50,340.38 (or £50,000 when rounded down). .

9. Other elements of the subject assessment were not in dispute. As a matter of record, these were the ground floor warehouse (4,029.17m^2 at £40.79 per m^2), the area under the supported floor (910.02m^2 at £28.55 per m^2), the mezzanine office (620.76m^2 at £44.87 per m^2), the mezzanine store (284.51m^2 at £20.40 per m^2) and the gatehouse (24.72m^2 at 40.79 per m^2).

Summary of evidence and submissions

10. The evidence before the panel comprised all of the information and documents which had been disclosed and exchanged between the parties as part of the challenge process.

Decision and reasons

11. This was an appeal against an entry in the 2017 rating list and so the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended). The material day in respect of the subject property is 30 July 2018.

12. The starting point for consideration, in accordance with the six propositions set out in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, is the actual rent passing on the subject property. The rental evidence provided was that of a fifteen year lease which had been agreed in April 2019. The rent was £379,166 per annum for the first two years, £433,334 for the third year and £650,000 for year four and £650,000 for year five. The rent was to be reviewed from year six.

13. The panel did not place any significant weight upon the passing rent for the subject assessment (which had been agreed four years post AVD) given the nature of the dispute and the fact the price per m^2 of each area had been agreed between the parties.

14. In broad summary, it was Mr Plowman's argument that the warehouse had been valued as part of a scheme which reflected an element of parking/circulation space (and could not be used for storage) within the price per m^2. If this was applied to the subject assessment then it would reduce the amount of land included within it (and therefore reduce its RV). In support of his contention, Mr Plowman presented evidence relating to six other assessments in the immediate locality (three warehouses and three factories).

15. Mr Stamper argued that the subject assessment was predominantly used for storage and had been entered into the rating list to reflect this as 'land used for storage and premises'. It was therefore his opinion that only the footprint of the building should be removed (and valued as a building) with the entirety of the remaining land assessed accordingly.

16. After fully considering the merits of the respective arguments, the panel found that the adjustment sought by Mr Plowman should not be made. The assessments which he had put forward in support of his contention were in different mode and categories of occupation (as warehouses and factories).

17. In contrast, the subject assessment was primarily storage land which included an ancillary warehouse. Such assessments will inevitably have space which is not actually used for storage given the practical need for an element of parking and circulation. Furthermore, Mr Plowman had not provided any evidence of assessments in the same mode and category of use which have benefited from the adjustment he had sought in order to substantiate his argument.

18. After full consideration of the evidence presented by the parties, the panel found that the Appellant had not discharged their burden of proof to demonstrate that the RV of the subject property was unreasonable. This appeal was therefore dismissed.

Date: 23 May 2023

Appeal Number: CHG100611407

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.