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: Speedway Farm, Colnbrook By Pass, Slough SL3 0EA

APPEAL NUMBER: CHG100627981

BETWEEN:	MF & VJ Kinane	Appellant
	and	
	The Valuation Officer	Respondent

PANEL: Mrs A Adeola (Presiding Senior Member)
Mrs N Carman (Senior Member)

CLERK: Mr A Johnson Tech IRRV

ON: 27 March 2023

APPEARANCES: Mr P Willmore of Rupert David Limited (for the appellant)
Mr U Javed (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 £136,000 with effect from 1 April 2017.

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 entered the 2017 non-domestic rating list with effect from 1 April 2017 as 'land used for storage and premises' measuring 6,516.7m^2 and it was located 3.2 miles from Heathrow Airport. 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 1 April 2017 was not reasonable. The RV was £136,000. The appellant was seeking a reduction to £105,000. The appellants had challenged the Valuation Officer's (VO) decision that their proposal was not well-founded.

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

5. 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).

6. 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.

Preliminary matter

7. On 20 March 2023 Mr Javed sent an email to Mr Willmore and to the Tribunal, in which he advised that the RV's of three properties referenced in this appeal had been increased. Subsequently, both parties submitted updated schedules of all the properties that had been relied upon to support their respective arguments. Each party was content for the other party's documents to be included in this appeal and, in view of this, the panel accepted them into evidence.

Issue

8. The issue in dispute was the correct RV for the subject property. The area in dispute was the ‘ground floor hard surfaced land’ measuring 6,259m^2 which had been valued at a rate of £20 p/m^2. The appellant had sought a reduced RV of £105,000 based upon £15 p/m^2.

9. The ‘store’ (144.2m^2 at £40.00 p/m^2) and the ‘portable building’ (113.5m at £50 p/m^2) were not in dispute.

Summary of evidence and submissions

10. The evidence before the panel comprised all of the information and documents which had been disclosed and exchanged as part of the challenge process together with the documents referred to in paragraph 8 above.

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 1 April 2017.

12. The panel was guided by the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. Whilst it was not found necessary to list them, this case set out six propositions to have regard to when weighing the evidence.

13. The starting point for consideration is the actual rent passing on the subject property. However, no rental evidence for the subject property was available because the appellants were understood to be the freehold owners of it.

14. The panel was presented with details of properties which ranged in distance of approximately 2.4 miles to 9.9 miles from Heathrow Airport in Colnbrook, Langley and Slough.

15. In broad terms, Mr Willmore argued that whilst distance from Heathrow Airport was a factor the hard surfaced land should, and, after allowing for an element of quantum, be valued in line with its size when compared with similar property’s in the locality. In contrast, Mr Javed argued that proximity to Heathrow Airport should be determinative as land was more valuable the closer it was to the airport.

16. After fully considering the merits of the respective arguments, the panel found that the price p/m^2 of the hard surfaced land should be determined by its proximity to Heathrow Airport in relation to its neighbours. In reaching this

conclusion the panel placed most weight upon the properties in Colnbrook (which included the subject property and were closest to the airport).

17. The closest comparable properties to the subject property in terms of both size and location were Unit 10 Poyle Road (0.1 miles from the subject property, 7,087.5m^2 at £20 p/m^2 before adjustment) and George Lines (0.2 miles from the subject property, 5,676m^2 at £22 p/m^2). This did not show that the current rate of £20 p/m^2 applied to the subject property was unreasonable.

18. The panel applied less weight to the three properties in Colnbrook which had recently been the subject of RV increases because there had been, given the relatively short passage of time, little opportunity for them to be challenged and appealed to the Tribunal.

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

Date: 4 April 2023

Appeal Number: CHG100627981

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.