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 part allowed.

Re: Broadlands Barn, Ashley Box, Corsham, Wiltshire SN13 8AN

APPEAL NUMBER: CHG100649875

BETWEEN:	David Fry	Appellant
	and	
	Ms Dawn Bunyan (Valuation Officer)	Respondent

PANEL:	Mr Mike Heslop-Mullens (Chair)
	Mr Alan Wheeler
CLERK:	Mr Duncan Adamson IRRV (Hons)
REMOTE HEARING 1:	14 December 2022
PARTIES PRESENT:	Mr Chris Lambert of Whitestone Commercial Ltd representing the appellant
	Mr Blake Edwards representing the Valuation Officer

Summary of decision

1. The appeal was part allowed. The rateable value (RV) of the hereditament was confirmed as £12,250 with effect from 1 April 2017.

Introduction

2. This 2017 compiled list appeal had been brought in respect of the property at Broadlands Barn, Ashley Box, Corsham, Wiltshire SN13 8AN owned by Mr David Fry. The rateable value was £14,500 with effect from 1 April 2017 on a base rate of £40/m^2. The RV was reduced as a result of the check case where the areas on record were incorrect. This reduced the RV to £14,250.

3. The LO had further offered to reduce the RV to £13,250 but the appellant's representative continued to seek £8,300 with two end allowances of 25% for the poor state of the property and 10% for location. The property had a 5% end allowance adjustment for poor quality.

4. The appeal property was a warehouse and premises with 90m^2 of hard surfaced fenced land. It was in a remote rural location with undefined and unfenced boundaries to the rear and was a single-skin, part-block construction with corrugated asbestos sides and roof.

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. Photographs of the appeal property and its location were also included.

8. The appellant's representative stated that the appeal property was a basic barn and had no water supply, no insulation, no toilet or drainage facilities and no telephone. For these reasons, he stated that there should be a 25% end allowance for poor quality and a 10% end allowance for poor location giving an RV of £8,300. This was based on an area of 347.23m^2 which would result in a main space rate of £23.90/m^2.

9. This would make the property align with tonal evidence he had submitted:

   C&D Building Products at Hill House Farm, Ditteridge, Box SN13 8QA. This was a smaller unit but on the same scheme as the appeal property and valued at a rate of £25.27/m^2.

   Unit 5, Moon Industrial Estate, Beech Road, Box Hill, Corsham SN13 8NF. This was a unit of comparable size and was valued at a rate of £31.22/m^2. However, this unit was of much higher quality, in a much better location and had better facilities.

10. He also stated that the appeal property had since been demolished for housing development.

11. In respect of the comparables submitted by the VO, he stated that they were not comparable as they were not in the same locality and were of better quality.

12. The VO representative stated that the end allowance had been offered to be increased to 7.5% as a result of correspondence in respect of the poor quality of the property. This reduced the RV to £13,250.

13. In respect of the two comparables submitted by the appellants representative, he stated that they were not comparable as they were of a different type of property and therefore placed little weight on their use in valuing the appeal property.

14. He had submitted a basket of rental evidence that was more aligned in terms of comparability with the appeal property, however, the properties were not in the specific locality. The most comparable properties were:

    Unit 42 Whitehill Industrial Park. A similar sized property with an RV of £11,500. The rent on the property of £15,000 was effective from 1 August 2015 and gave an adopted value of £36.56/m^2.

    Ashworth Designs Unit, 4 Sherston Works. Again of a similar size to the appeal property with an RV of £14,500. The rent on the property of £14,280 was effective from 1 December 2015 and gave an adopted value of £40.76/m^2.

15. For these reasons he proposed no further change to the base rate or the RV.

Decision and reasons

16. 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 –“

    a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

    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”.

17. 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).

18. 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.

19. The panel noted that the provisions of the *Lotus and Delta* case in terms of rental evidence in respect of the appeal property were not relevant here as there was no rent to consider.

20. The panel therefore had to look at the comparable evidence submitted. However, the panel found that some of the VO comparables, although similar to the appeal property, were 20 miles away and therefore did not consider that they were singularly helpful in valuing the appeal property.

21. Also, that the appellant's representatives comparables of C&D Building Products and Unit 5, Moon Industrial Estate, whilst being closer, did not fully match the appeal property in terms of age as they were older properties.

22. The panel noted that the appellant was seeking an overall end allowance of up to 35% where it had already been offered a 7.5% allowance.

23. The panel found that a further 7.5% end allowance would better reflect its overall valuation when compared to older properties in the locality and similar properties that were some distance away. This would then mean that the property was subject to end allowances totalling 15% and give an RV of £12,256.25 rounded down to £12,250. The panel found that there was no need to amend the base rate.

24. The appeal was therefore part allowed.

Order

25. Under the provisions of regulations 38(4) and 38(10) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for

England orders the Valuation Officer to reduce the rateable value of Broadlands Barn, Ashley Box, Corsham, Wiltshire SN13 8AN to £12,250 with effect from 1 April 2017.

26. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

27. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 9 January 2023

Appeal number: CHG100649875

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.