THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; factory and premises; price per m^2 in dispute; rental evidence; comparable assessments; appeal dismissed.

RE: T J Press (Padstow) Ltd, Trecerus Ind Est, Padstow, Cornwall PL28 8RW

APPEAL NUMBER:	CHG100687422	
BETWEEN:	T J Books Limited	Appellant
	and	
	Mr D Virk, Valuation Officer	Respondent
PANEL:	Mr S W Chappell (Senior Member) and Ms S Eze	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Friday 6 January 2023	
APPEARANCES:	Mr R Storr from Altus Group, representing the appellant Mr A Durrant representing the Valuation Officer	

Summary of decision

1 Appeal dismissed. The panel confirmed the rateable value (RV) of £95,000 with effect from 1 April 2017.

Introduction

2 This is a 2017 rating list appeal. T J Press (Padstow) Ltd, Trecerus Ind Est, Padstow, Cornwall PL28 8RW, (the ‘appeal property’) had been entered in the 2017 rating list as ‘factory and premises’ at a RV of £95,000 with effect from 1 April 2017.

3 The challenge proposal was submitted by Altus Group on behalf of T J Books Limited and was received by the Valuation Officer on 27 April 2021. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £41,000 was proposed with effect from 1 April 2017.

4 The Valuation Officer issued a challenge case decision notice on 21 October 2021 which stated that based upon the evidence and information available, the rating list entry was reasonable and there would be no change to the list entry of £95,000 RV.

5 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 17 February 2022.

6 In the absence of a statement of truth, Mr Storr confirmed that he was instructed under a contingency fee and he understood that his duty was first and foremost to the Tribunal. This was in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7 The appeal property is an industrial unit built in 1973, situated within the Trecerus Industrial Estate on the outskirts of Padstow. The present valuation of £95,000 RV is based upon a total area of 2,508.70 m^2 (total significant area of 2,484.42 m^2) at an unadjusted price of £40 per m^2.

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

Preliminary issue

9 Two preliminary issues were raised by Mr Durrant on behalf of the Valuation Officer:

1. Details of a further comparable property were included in the appellant's supporting evidence which had not been referred to during the challenge process. Mr Durrant considered that this was new evidence and he objected to its inclusion in the proceedings.
2. The appellant's supporting evidence statement included a revised valuation of £61,000 RV which was not included previously and had not been discussed.

10 The panel was aware that a change in the RV sought was a common occurrence at the appeal stage and found no issue in this case with a higher RV proposed by Mr Storr.

11 In response to the first issue, Mr Storr accepted the point and stated that he was happy for the comparable property to be disregarded. Consequently, the panel confirmed that the evidence would not form part of the proceedings.

Issues

12 The challenge proposal sought a revised RV of £42,500 based upon an unadjusted price of £25 per m^2 and an end allowance of 20% for layout/mixed ages.

13 The appeal to the Tribunal sought a revised RV of £61,000 based upon an unadjusted price of £25 per m^2.

14 The only remaining issue in dispute was the price per m^2 to be adopted in the valuation.

Evidence and submissions

15 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: appellant's challenge submission, initial response to the challenge, challenge further exchange, Valuation Officer's challenge case decision notice, and appellant's supporting evidence statement.

16 Mr Storr contended that the appeal property was over assessed at £40 per m^2. He disputed the relevance of the Valuation Officer's comparable properties and the valuation scheme the appeal property had been placed in. With reference to his rental and assessment evidence he proposed a revised RV of £61,000 based upon an unadopted price of £25 per m^2.

17 Mr Durrant stated that with a total significant area of 2,484.42 m^2, the appeal property fell within the size band of 2,125 m^2 to 3,000 m^2 with an associated price of £40 per m^2. He contended that the appellant had not provided rental evidence to demonstrate that the RV was unreasonable. With reference to his rental and assessment evidence he asked the panel to confirm the present RV of £95,000 based upon an unadopted price of £40 per m^2.

Decision and reasons

18 In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) 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.

19 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, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

20 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

21 Both parties had referred to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 in their submissions. This was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent.

22 In his rental summary, Mr Storr provided two rental transactions for the appeal property. A lease had been granted in April 2011 at a rent of £42,500 and it had been renewed in December 2019 at the same rent. While he accepted that it was a lease renewal he rejected the Valuation Officer's contention that it did not carry any weight, particularly in a remote location where there was a paucity of rental evidence. Mr Storr also highlighted that the Valuation Officer had initially scheduled a rent for the appeal property at £117,500 effective from December 2019 which was incorrect.

23 Mr Durrant acknowledged that the subject rent was correct at £42,500. However, he contended that little weight should be placed on it as it was a lease renewal at a nil increase four years post AVD.

24 As set out in *Lotus and Delta*, the starting point was the subject rent. Consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to the subject rent. In view of the fact that the rent was four years after the AVD, the panel attached little weight to the 2019 rent. The panel considered that as the 2011 rent was agreed four years before the AVD, it also carried little weight.

25 The remaining propositions in *Lotus and Delta* required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

26 Mr Storr presented the following comparable properties in support of his adopted price of £25 per m^2 for the appeal property:

Parcelforce, Unit 11/11A Callywith Gate Industrial Estate, Launceston Road, Bodmin PL31 2RQ

A more modern unit of 3,139 m^2 constructed in 1996. The rent effective from 2 May 2013 was adjusted by Mr Storr to reflect a 12 month rent free period. This resulted in an effective rent of £76,000 which analysed at £24.17 per m^2. Considered by Mr Storr to be in a better location having direct access to the A30 trunk route.

Seafood Trading, Units 2 and 3 Hurling Way, St Columb Major, TR9 6SX

A more modern unit of 2,388.50m^2 constructed in 2005. The rent effective from 25 July 2016 analysed at £39.72 per m^2. Mr Storr acknowledged that this was much newer than the appeal property, however, with such a paucity of comparable transactions he considered that it provided guidance. Despite the better location and more modern building, it had been valued at an unadopted rate of £35.25 per m^2.

27 The rental transaction for Parcelforce had been queried by the Valuation Officer in the challenge decision, but had subsequently been accepted. The relevance of Seafood Trading had been disputed as it was built in 2005.

28 In support of the present unadjusted price of £40 per m^2, the Valuation Officer presented the following:

Units 3 & 4, Park 30, Quarry Crescent, Pennygillam Industrial Estate, Launceston PL15 7ED

A warehouse and premises of 1,686.77 m^2, subject to a new three year lease at a rent of £68,800 effective from 14 March 2015. The rent analysed at £42.38 per m^2. Mr Durrant contended that a very high weighting should be attached to this evidence.

John Guest Ltd, Units 2 & 3, Pipers Close, Pennygillam Estate, Launceston PL15 7PJ

A workshop and premises of 895.30 m^2, subject to a new ten year lease at a rent of £46,668 effective from 1 April 2014. The rent analysed at £48.79 per m^2. Mr Durrant attributed a lower weighting to this evidence due to the rental figure being agreed in a review and the adjustment required for the terms being internal repairing and insuring.

29 In response, Mr Storr submitted that both of the Valuation Officer's comparable properties were in a superior location with good access to the adjacent A30 trunk route. He described Units 3 & 4, Park 30, Quarry Crescent as being over ten years more modern; a map of the area from 1983 showed that there were no buildings in the location. On that basis, Mr Storr argued that it was not a suitable comparable.

30 Mr Storr submitted that John Guest Ltd was not a good comparable, as it was a more modern unit constructed in the mid 2000's. He further questioned the reliability of the rent as he considered that John Guest Ltd was a special purchaser, already in occupation at Unit 3 when they acquired Unit 2.

31 The panel noted that the appeal property had been valued on a size-based matrix titled "Cornwall Cat.1/3 Industrials – Matrix 2002." This included:

"All industrial units in Bodieve, Dunveth, Trecerus and South Quay industrial estates. Also industrial units in Pennygillam built in the style of units built from 1980, in Dunmere Road built in the style of units built from 1971 onwards, in Kings Hill/Trenant built in the style of units built from 1980 onwards. Excludes specialist uses & large units >5,000m^2."

32 Mr Storr contended that the appeal property did not fit comfortably in this scheme as it was built in 1973 and was in the same scheme as factories built after 1979 at Pennygillam; in his opinion this was the premier estate in Cornwall in a far superior strategic location adjacent to the A30 trunk route. He considered that the appeal property was in an inferior remote location. Mr Durrant acknowledged that the location of the appeal property in Padstow was not as good as others he had referred to , however, he maintained that it was not as poor a rural location as Mr Storr had represented.

33 The parties had each presented two comparable properties in support of their respective cases. Mr Storr cited the analysed rent for Parcelforce Unit 11/11A Callywith Gate Industrial Estate at £24.17 per m^2. The panel noted that it was a 1996 built property valued according to a different valuation scheme at an unadopted price of £43 per m^2. Comparing properties from different schemes is not comparing on a like for like basis as the value applied has been derived from different evidence. Consequently the panel decided that little weight should be attached to Parcelforce.

34 Mr Storr's second comparable, *Seafood Trading, Units 2 and 3 Hurling Way* was in the same valuation scheme as the appeal property, which he argued demonstrated some comparability. While it was valued in the same scheme, the panel considered that a more modern 2005 unit was not directly comparable with the appeal property.

35 Of the two comparable properties presented by the Valuation Officer, the panel attached most weight to Units 3 & 4 Park 30, Quarry Crescent. This was the closest in age to the appeal property, and the rent effective from 14 March 2015 was the closest to the AVD. The analysis of the rent at £48.79 per m^2 demonstrated that an adopted price of £40 per m^2 for the appeal property was not excessive. John Guest Ltd, Units 2 & 3, Pipers Close was a more modern unit built in the 2000s and more than half the size of the appeal property. For those reasons, the panel attached little weight to it.

36 The panel concluded that the appellant's representative had failed to demonstrate that the appeal property should be valued at an unadjusted price

of £25 per m^2. In light of the evidence presented, the panel was satisfied that at an unadjusted price of £40 per m^2 the valuation of the appeal property was not unreasonable. The appeal was dismissed.

Date: 24 January 2023

Appeal number: CHG100687422

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.