THE VALUATION TRIBUNAL FOR ENGLAND

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

RE: 3a Nobel Road, London, N18 3DX

APPEAL NUMBER: CHG100704323

BETWEEN: Sova Food Wholesale Limited — Appellant

(Represented by FCS Nationwide Ltd)

and

Dawn Bunyan — Respondent

(Valuation Officer)

PANEL: Mr P Hickson (Senior Member)
Mr A Asante

REMOTE HEARING: 25 November 2022
CLERK: Mr James Massey
APPEARANCES: Mr M Bates of FCS Nationwide Ltd for the Appellant.
Mr T Jackson for the Valuation Officer.

Summary of decision

1. Appeal dismissed. The panel confirmed the Rateable Value (RV) of the subject property at £103,000 with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. 3a Nobel Road, London, N18 3DX (the ‘subject property’) had been entered in the 2017 Rating List as ‘warehouse and premises’ at a RV of £103,000 with effect from 1 April 2017. As this was a compiled list appeal the material day was also 1 April 2017.

3. The challenge proposal was submitted by FCS Nationwide Ltd on behalf of Sova Food Wholesale Ltd and was received by the Valuation Officer (VO) on 24 June 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 £73,000 with effect from 1 April 2017.

4. The VO issued a challenge case decision notice on 11 October 2022 in respect of the subject property. The VO's decision was to treat the appellant's challenge as not well-founded, and that the current rating list entry was reasonable.

5. The subject property comprises a 1,572.91m^2 industrial unit on Nobel Road on the Ely Estate in the London Borough of Enfield. It was built in 1993 and refurbished in 2007.

6. This document is not intended as a verbatim report of the proceedings, nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the panel.

Issue

7. The issue between the parties concerned the RV of the subject property and, specifically, the rate per m² that should apply. Mr Bates, for the appellant, sought a reduction to £73,000 RV based on an unadjusted main space rate of £50.00 per m². Mr Thomas, for the VO defended the amended assessment of £103,000 RV, which was based on an unadjusted main space rate of £70.00 per m².

8. All relevant factual information regarding the subject property, including its area, and the relativities used in their respective valuations were not disputed by the parties.

Evidence and Submissions

9. As Mr Bates appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

10. Mr Bates declared that he was not instructed under any conditional fee arrangement and confirmed 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.

11. Mr Jackson's statement of truth included a statement that he was not instructed under any conditional fee arrangement. He 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 respondent's case.

12. The evidence bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice; appellant's submission; their respective valuations and details of the subject property and comparable properties.

13. Mr Bates referred to the increase in the RV of the subject property from £62,500 in the 2010 Rating List to £103,000 in the current list. He considered that this increase of 65% was excessive and there was no evidence to support such a rental increase between the respective AVDs for the two lists. He considered that the RV of £73,000 which he proposed represented a rental increase of 17% which was more reasonable.

14. Mr Bates did not consider that the respondent had provided sufficient rental evidence to support the current rate of £70 per m^2 applied to the subject property and considered a reduced rate of £50 per m^2 was more realistic. In support of this he referred to Units at 5C and 5J Nobel Road N8 3BH, which he considered to be comparable in size (1,400 m^2 and 1,229m^2 respectively) and close to the subject property.

15. In support the current rate applied to the subject property Mr Jackson referred to the rent on the unit next door. The rent of £72,000 per annum (pa) had been agreed for 3B Nobel Road on a new letting from 24 July 2013, and based on its size of 1,179m^2 this rent had analysed to £62.32 per m^2. Mr Jackson considered that taking account of the increase in rental values between July 2013 and the AVD, this rent supported the rate of £70 adopted for 3B Nobel Road and for the subject property.

16. Mr Jackson also referred to the scheme under which the subject property and 3B Nobel Road had been assessed. This scheme relates to all industrial properties on the Ely Estate in the London Borough of Enfield built between 1985-1993. He stated that the two comparable properties, 5C and 5J Nobel Road, referred to by Mr Bates were older than the subject property, having been constructed between 1965 and 1973 and were of a different build quality with lower eaves height and flat roofs. This was reflected in the range of values for the scheme in which they had been placed and he did not consider that their assessment at £50 per m^2 indicated that the current rate of £70 per m^2 for the subject property was excessive.

17. Mr Jackson also referred to the settlement of the assessment of Unit 1 at 14, Advent Business Park, N18 3AL at a rate of £100 per m^2. He considered that even taking into consideration the fact that this was a smaller unit (755.64m^2) and was more modern (2014), its assessment indicated that the rate applied to the subject property was not unreasonable.

Decision and Reasons

18. The appeal hereditament 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.

19. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)and Leicester City Council* 1976, 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 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.’

20. Neither party had referred to a rent passing on the subject property, so the panel looked to the rental and assessment evidence on the comparable properties provided by the parties.

21. It found that the best evidence was the rent for 3B Nobel Road, which was identical in location to the subject property and similar in size and age. Its rent required no adjustment to conform to the statutory definition of rateable value except that it was agreed nearly two years before the AVD. The panel accepted that there was rental growth between July 2013 and the AVD and considered that the analysed rent of £62.32 for 3B Nobel Road supported the rate of £70.00 per m^2 applied to the subject property.

22. The panel considered the appellant’s argument that the difference in age of 5C and 5J would not necessarily indicate that they would attract a lower rent, as it was possible to have demand for property in a location such that the rental values per m^2 are the same for older properties. Whilst the panel was aware that the age of a property is not always significant, in this case it considered that the schemes in which the subject property and the appellant’s comparable properties had been placed were dependent upon age. The rates applied to properties within these schemes had been generated from rental evidence which the panel considered was an indication that rents were lower in the subject property’s location for older properties.

23. The panel considered that some weight should be placed on the settlement evidence provided by the respondent for Unit 1 at 14, Advent Business Park, N18 3AL. Although this was a smaller, more modern property located half a mile from the subject property, the panel considered that its agreed assessment at £100.00 per m^2 demonstrated that higher rents were being achieved for more modern units in a similar location to the subject property.

24. From the passing rent on the comparable property provided by the respondent, the panel was satisfied that the current assessment of the subject property at £70.00 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. The appeal is therefore dismissed.

Date: 23 December 2022

Appeal number: CHG100704323

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.