VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; land used for storage and premises; accuracy of compiled list entry; comparable assessments; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed in part.

RE: R Barker And Sons (Transport) Ltd, Tollgate Road, Burscough, L40 8LD

APPEAL NUMBER: CHG100709054

BETWEEN:	Clarke & Pullman Ltd	Appellant
	and	
	Amanda Hitchings (Valuation Officer)	Respondent

PANEL:	Ms C Edwards (Chairman)
	Mr FJ Rogers
CLERK:	Ms N Shepherd IRRV (Hons)
SITTING ON;	Wednesday 26 April 2023
APPEARANCES:	Mr K Batty (Appellant's representative)
	Mr J Richardson (Valuation Officer's representative)

Summary of Decision

1. Appeal allowed in part. The appeal property's assessment was reduced to £23,500 rateable value (RV) with effect from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer on 8 July 2021. After considering the proposal and evidence submitted during the challenge period, the Valuation Officer (VO) decided that the proposal was not fell founded and refused to alter the existing assessment of £26,000 RV. A decision notice to that effect was served on the appellant on 7 June 2022. Subsequently, the appellant's representative then appealed the VO's decision to the tribunal on 11 November 2022, on the grounds that the current valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The appeal hereditament, measuring 3,116m^2, is located on a large industrial estate off Tollgate Road, approximately half a mile from the A59 and ten miles from the M6. It has a combination of hard surfaced and unsurfaced fenced land. It had been valued on a valuation scheme applicable to lorry parks throughout Lancashire and Cumbria with premium above storage land values because of location and/or security (388291) on unadjusted rates (UAR) of £4.05 per m^2 for the hard surfaced land and £3.38 per m^2 for the unsurfaced land.

4. In order to assist the tribunal, the parties had agreed all basic facts and the analysis of the competing rental evidence.

5. Mr Batty appeared on behalf of the appellant as expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Batty's declaration of truth included a statement that he was not instructed under any conditional fee arrangement. Mr Batty 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 client's case.

6. This hearing was held remotely via Microsoft Teams.

7. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

8. To determine the rate per m^2 for both hard surfaced and unsurfaced land and whether an allowance of 5% for poor location and access should be adopted.

Evidence and submissions

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

Decision and reasons

10. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

11. The term ‘rateable value’ is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended): “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”

12. The Lands Tribunal judgment in Lotus and Delta v Culverwell (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

13. Mr Batty submitted that the appeal property was held freehold so no rental evidence was available. No other rental evidence was submitted by either party.

14. Mr Batty made reference to comparable assessments of two neighbouring properties:

    - Calico Transport, £2.38 per m^2 for surfaced land and £1.19 per m^2 for unsurfaced land- no size provided
    - J Doyle & Co, £0.80 per m^2 for unsurfaced land- was 11,736m^2 in size

15. Mr Batty contended that these assessments supported his argument that the rates adopted for both surfaced and unsurfaced land were too high. He stated that the comparable assessments were within the same valuation scheme as

the appeal property and demonstrated that the land of the appeal property had been majorly over assessed.

16. The panel noted that no size had been provided for Calico Transport, but that J Doyle & Co was significantly larger than the appeal dwelling. As such the panel was aware that a quantum allowance may have been granted, which could lower the value per m^2 significantly. However, Mr Batty submitted that even accounting for quantum, he had calculated that in accordance with the £0.80 placed upon the J Doyle & co that the assessment for unsurfaced land at the appeal property should be £2.40, less than the £2.75 he was proposing.

17. Mr Richardson contended that he was aware that the values of £3.25 for surfaced land and £2.75 for unsurfaced land was common within the locality of the appeal property, however that was for dwellings which weren't lorry parks with added premium security. Whilst noting this contention, the panel was aware that the comparable assessments provided by the appellant were within the same scheme as the appeal property and were therefore also lorry parks.

18. No comparable assessments had been provided by the respondent, however Mr Richardson submitted that the values used were the same as those used in the 2010 rating list, which had previously been agreed following a challenge. There had been no change in land values since that date. Furthermore, the value of the land was lower than most within the valuation scheme, with the base rate being between £2.10 and £28.00 per m^2.

19. Regarding whether an allowance of 5% should be adopted in terms of the poor location and access to the appeal dwelling, Mr Richardson also referred to the previous agreement with the appellant for the 2010 rating list, explaining that this had never been an issue in contention.

20. The panel considered Mr Richardson's point about the previous entry for the appeal property in the 2010 rating list with regards to both the values for land and whether an allowance was applicable. However, it noted the 2010 rating list was a different entity to the 2017 list and was therefore of little significance. It therefore attached little weight to this argument.

21. Mr Batty had provided evidence of end allowances adopted for a number of properties which he contended supported his argument that an allowance of 5% should be adopted as a result of poor access and location.

22. Mr Richardson contended the evidence provided by Batty to not be good comparisons, as they were not within the locality of the appeal property and did not relate to lorry parks. Furthermore, he submitted that a number of properties located on the same industrial estate as the appeal property suffered from a worse location and poorer access and had not been granted an allowance.

23. The panel considered the photograph and location plan provided of the appeal property. It found that this evidence demonstrated that whilst access was clearly visible from one direction, from the other it was far less so and it would

have been difficult to locate the appeal property as a result. As such, it found that an allowance should be granted to take this disability regarding location into account. However, it did not consider the disadvantage significant enough to warrant an allowance of 5%. Taking into consideration the access was only poor from one direction, the panel determined an allowance of 2.5% to be reasonable to reflect this.

24. Regarding the land values, the panel found that whilst evidence had been provided by Mr Batty to demonstrate that these had been over assessed, it was not persuaded by the figures proposed. As such, based on the evidence provided by both parties, it determined that a reasonable figure to be adopted for surfaced land was £3.75 per m^2 and for unsurfaced land to be £3.00 per m^2.

25. Therefore, having regard to the evidence and argument presented the panel found that:

Assessment without adjustments: £21,033

Plus portable buildings £1575

Plus sheds £1375

Plus plant and machinery £122

Less allowance: 2.5% poor access and location = £23,502.38

Say £23,500

Order

26. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list to show a revised assessment of £23,500 RV for the appeal property, with effect from 1 April 2017.

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

Date: 27 May 2023

Appeal number: CHG100709054

Right of further 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.