THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; Local Government Finance Act 1988; Car park spaces; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Comparable assessments; Appeal dismissed.

RE: National Car Parks 2 & 3, Airport Way, Birmingham Airport, Birmingham B26 3QW

APPEAL NUMBER: CHG100710451

BETWEEN:	NCP Limited	Appellant
	and	
	Ms Alexandra Morley (Valuation Officer)	Respondent

BEFORE:	Miss Alison Griffiths	(Chair and Senior Member)
	Mr Philip Hickson	(Senior Member)

CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 2:	14 August 2023	
PARTIES PRESENT:	Mr Richard Wackett of Montagu Evans	Appellant's representative
	Ms Ottie Gee	Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £3,210,000 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of the following: the appellant was the non-domestic rates payer of the appeal property at National Car Parks 2 & 3, Airport Way, Birmingham Airport, Birmingham B26 3QW.

3. This was a car park and premises located 10 miles east of Birmingham City providing car parking for Birmingham airport and was a two-minute walk from the airport terminal. It was operated and maintained by NCP and there were a total of 2,007 car park spaces.

4. The RV of the property was £3,210,000 calculated on a base rate (per car park space) of £1,601.69 based on a figure of 49% of its fair maintainable trade (FMT) of £6,447,000.

5. The appellant's representative proposed that it should be reduced to £2,100,000 based on a valuation approach applying a percentage of 35% to gross receipts of £6,000,000. 35% was the same percentage figure as that applied to the 2010 rating list for the appeal property. Other car park assessments in the Birmingham locality should also be compared.

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

Issue

7. The RV of the appeal property.

Evidence and submissions

8. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, assessment summaries and the appellant's challenge submission.

9. On 4 August 2023 the respondent's representative had submitted further evidence in support of her case to the tribunal and to the appellant. The appellant was happy to accept the new evidence and the hearing proceeded.

Decision and reasons

10. The panel referred to the Local Government Finance Act 1988 in respect of the definition of rateable value in paragraph 2(1), Schedule 6 to the Act (as amended). 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.

11. The material day for this appeal was 1 April 2017.

12. The panel noted that there was no rental information at the AVD in respect of the appeal property and it would therefore have to consider the pros and cons of the approach of both parties to valuation in respect of what a hypothetical tenant would be willing to pay based on the appeal property's FMT.

13. The appellant had submitted that the FMT should be calculated with reference to the income over a three-year average, this would be £5,917,955 rounded to £6,000,000. Further that the level of income from the car park reflected its general popularity but, as it was an older car park, it would attract a lower rental bid from the hypothetical tenant.

14. He had analysed the income, costs and profit over the three financial years from 2013/14 onwards to arrive at a net profit and then divisible balance. On a 50/50 split between tenant's share and rental value he submitted that the rental value as a percentage of gross receipts was 34%, 35% and 31% over the three respective years. From these figures, he contended that 35% should therefore be the figure used for the % age of FMT.

15. This would be in line with other car parks analysed to between 35% and 45% in the same way. As the appeal property was older, the lowest figure of 35% should be used.

16. However, the panel made reference to agreements reached in the 2017 rating list for car parks and noted that there was an established trend of between 30% to 50% of income. Further, that there was a greater weighting towards rental value to over 50%.

17. The panel found that 49% was a reasonable percentage of income to be used. The panel also found that this was supported by evidence in respect of the car park at St Chads, Queensway, Birmingham. The VO had trade receipts from 2012/13 and analysed that the rent, set in 2013 after a review, equates to 47% of receipts or 67% of the divisible balance. The appeal property profit was five times that of St Chads and the panel found that the percentage figure of 49% of FMT was not unreasonable in being used to calculate the RV.

18. The panel noted that the appeal property was in an area of high usage and was very close to the airport which was a large international airport. It had very good performance and in the analysis of such, including comparable evidence at St Chads, the panel found that the percentage of FMT used by the VO was not unreasonable.

19. The panel noted that the respondent had also considered valuation of the appeal property by the Receipts and Expenditure (R&E) method in order to weigh the reasonableness of the outcome of the FMT method. It was not a substitution and the panel found that it gave a better-informed valuation of the property and was helpful in its decision-making.

20. In conclusion, the panel found that 49% of the appeal property's FMT represented the rental bid of a hypothetical tenant and therefore that the current RV of £3,210,000 was not unreasonable.

21. The panel found that, in cases of this nature, the onus was on the appellant to prove his case. The panel found that his case had not been proven but there had been sufficient evidence to show that the current RV of the appeal property was not excessive and was reasonable.

22. The panel therefore dismissed the appeal and confirmed the RV as £3,210,000 with effect from 1 April 2017.

Date: 25 August 2023

Appeal number: CHG100710451

Rights of appeal

Any party who is aggrieved by the Tribunal's decision 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.