THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2017 Rating List; Warehouse and Premises; Accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed.

RE: Skynet House 18-21, Pulborough Way, Hounslow, TW4 6DE

APPEAL NUMBER: CHG100717906

BETWEEN:	Deltec International Courier (Represented by Altus Group)	Appellant
and	Dawn Bunyan (Valuation Officer)	Respondent

PANEL:	Mrs L Long (Presiding Senior Member) Ms R Sharma (Senior Member)
CLERK:	Mr J Massey
REMOTE HEARING:	Friday 21 July 2023
APPEARANCES:	Mr D Snell from Altus Group (Appellant's representative) Mr J Balogun - Valuation Officer's representative

---

Summary of Decision

1. The appeal was allowed as the panel determined a tone of value of £100 per m² and a value of £235 per car parking space. The assessment was therefore reduced from £560,000 to £505,000 Rateable Value (RV) with effect from 1 May 2019.

Introduction

2. The appellant's representative made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 12 August 2021. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded but considered that the existing assessment of £610,000 RV was excessive and reduced it to £560,000 RV. A decision notice to that effect was served on the appellant on 27 October 2022.

3. The appellant's representatives then appealed the VO's decision to the tribunal on 9 February 2023, 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.

4. The appeal property was a modern detached industrial unit of steel portal frame construction, built in 2014/2015 which had an eaves height of approximately 9 metres. It was extended in 2019 and with effect from 1 May 2019 measured 4,871m^2. Its current valuation of £560,000 had been derived from a main space rate of £110 per m^2 and a value of £250 per car parking space.

5. Both parties appeared before the panel in a dual capacity as both Advocate and Expert Witness. Mr Snell, the representative for the appellant stated that he was on a success related fee but accepted that his first duty was to the Tribunal and that he would comply with this duty together with the requirements of his professional body, regardless of whether or not the evidence supported the appellant's case.

6. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), the panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial in England).

7. The panel therefore, considered the "expert" evidence and attached such weight to it as it saw fit.

8. The statement of truth signed by Mr Balogun, the VO's representative confirmed that he was not instructed under any conditional or other success-based fee arrangement.

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

Issue

10. The issue in dispute before the panel was the correct main space rate and price per car parking space to be applied to the appeal property. The appellant sought a reduced entry of £505,000 RV based on a main space rate of £100 per m^2 and the 30 car parking spaces valued at £235 per space.

Evidence and submissions

11. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge; challenge further exchange; VO's challenge case decision notice; and appellant's challenge submission, photographs of the exterior of the appeal property and comparable properties.

Decision and reasons

12. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141.

13. The starting point for consideration was the actual rent passing on the appeal shop. The freehold of the appeal property was held by the appellant although the VO had referred to a rent of £635,850 per annum passing from 1 January 2015. The appellant stated that this was an internal rent and although the Form Of Return (FOR) stated this was an open market rent, neither party placed significant weight on this rent, which devalued to £113.29 per m^2.

14. The panel went on to consider the comparable evidence provided by the parties.

15. Mr Snell had referred to a number of assessments in the area which had been recently agreed at between £90 and £100 per m^2.

   - Unit 2, Space Waye, Feltham TW14 0TH (3,049 m^2) was within valuation scheme 362149 (which covered the postcode TW4 and TW14 for Modern Industrial Units built post 2010) and its tone had been reduced from £115 to £100 per m^2;
   - Unit 9 Space Waye Park, TW14 0TH (3,281 m^2) was within valuation scheme 362148, which is applicable to industrial units built between 2000 and 2010 located in TW4 and TW14, has also been amended with the tone reducing from £100 to £95 per m^2;
   - Virgin Logistics Centre, Green Lane, Hounslow, TW4 6BT (2,026 m^2) was within valuation scheme 362147, applicable to units built between 1994 and 2003 located in TW4 and TW14 has been agreed and reduced from £100 to £90 per m^2;
   - 606 Central Way, Feltham, TW14 ORX (4,713 m^2) was older and different in style and had been valued at £90 per m^2.

16. ATC Lasham, Green Lane was adjacent to the appeal property and was in the same valuation scheme (432562) which was applicable to all large industrial properties built post 2010 within the London Boroughs of Harrow, Hounslow, Hillingdon, Ealing, Brent, Hammersmith and Fulham, Kensington and Chelsea and Westminster with areas between 4,000 m^2 and 10,000 m^2. The appellant considered that the rate applied of £110 per m^2 was excessive and had not been supported by any rental evidence by the respondent.

17. Mr Balogun considered that ATC Lasham, Green Lane was inferior to the appeal property as it had slightly lower eaves height, and its assessment at £110 per m^2 supported the revised value of the appeal property. He also referred to Unit 1, Heathrow South Cargo Centre, Great South West Road, Feltham, TW14 0PH, which at 12,248m^2 was more than double the appeal property's size and had been agreed at 100 per m^2 compared to its rent agreed in March 2015, and analysed to £101.23 per m^2. He stated that the appeal property was in the lower range of sizes for scheme 432562 and its value would therefore be at the upper end of the range of values for that scheme (£70-130 per m^2), whereas Mr Snell's properties in Space Waye were valued in more location specific schemes.

18. With regard to the location of the comparable properties, the panel noted that ATC Lasham and Virgin Logistics Centre were adjacent to the appeal property, whilst Space Waye and Central Way were further away, within the TW14 postcode. The panel did not consider that the difference in location was value significant in this instance, and this was supported by the grouping of industrial properties in the TW4 and TW14 postcode areas in the various valuation schemes.

19. Virgin Logistics Centre was older than the appeal property, and had been agreed accordingly at £90 per m^2, however it was also less than half the size of the appeal property. Unit 2 Space Waye, Feltham was the same age and style as the appeal property, and the panel

found this to be most comparable to the appeal property. It had been agreed at a rate of £100 per m^2 and at 3,049 m^2 was somewhat smaller than the appeal property. The panel concluded that this indicated that the rate of £110 per m^2 applied to the appeal property was excessive.

20. Whilst the panel noted that the appeal property was much smaller than Unit 1, Heathrow South Cargo Centre and would normally attract a higher rate, it placed weight on Mr Snell's statement that Unit 1, Heathrow South Cargo Centre was one of the best quality units in the locality and was valued at the same rate as lower quality units 3,000 m^2 in size. It therefore did not consider that its assessment at £100 per m^2 supported a rate of £110 per m^2 for the appeal property.

21. Having considered the opposing comparable evidence submitted by the parties, the panel considered that the basket of evidence supported a reduction in the rate applied to the appeal property to £100 per m^2.

22. With regard to the rate applied to the 30 car parking spaces at the appeal property of £250 per space, the panel considered that the best guide to the appropriate price was ATC Lasham where the spaces were £235 per space. Mr Balogun had argued that there was an element of quantum in valuing car parking spaces, and there were 69 spaces at ATC Lasham, and they therefore warranted a lower rate. The panel noted also that the 17 car parking spaces at 2 Space Waye were valued at £265 per space and the 39 spaces at 9 Space Waye were valued at £240 per space, which supported the respondent's assertion that quantum played a part in their value. However the panel also noted that the parking spaces were located to the front of the appeal property with no security barriers or access control whereas those at ATC Lasham and 9 Space Waye were secured. The panel considered that this would be a disadvantage due to the extra efforts required to prevent unauthorised parking and would have a detrimental effect on the value. The panel considered that a reduction in the rate applied to the 30 car parking spaces at the appeal property to £235 per space was reasonable.

23. The appellant's grounds of appeal were therefore made out as the existing assessment was unreasonable. The appeal was therefore allowed.

Order

24. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to alter the list entry for the appeal property to £505,000 RV with effect from 1 May 2019. The Valuation Officer must comply with this Order within 2 weeks of its making.

Refund of appeal fee

25. The Appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Date: 7 August 2023

Appeal number: CHG100717906

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.