THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; Local Government Finance Act 1988; Unadjusted rate per m^2 in dispute; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Comparable assessments; Appeal allowed.

RE: Unit 19 / 21, Bridge Street, Bailey Gate Industrial Estate, Sturminster Marshall, Wimborne, Dorset BH21 4DB

APPEAL NUMBER: CHG100723066

BETWEEN:	Siteright Construction Supplies Limited	Appellant
	and	
	Ms Dawn Bunyan (Valuation Officer)	Respondent

PANEL:	Mrs Nicola Yang	(Senior Member and Chair)
	Mr John Imperato	(Senior member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 2:	21 March 2023	
PARTIES PRESENT:	Mr Graham Birch of Bolton Birch	Appellant's representative
	Mr Kyle McAloon	Respondent's representative

Summary of decision

1. Appeal allowed. The Rateable Value (RV) of the appeal property was reduced to £42,000 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 Unit 19 / 21, Bridge Street, Bailey Gate Industrial Estate, Sturminster Marshall, Wimborne, Dorset BH21 4DB. It was a modern industrial workshop and premises that had been occupied by the appellants since 2004/5 and the RV was £44,000 with effect from 1 April 2017.

3. Through the Check, Challenge, Appeal (CCA) process the appellant's representative proposed that the RV be reduced to £42,000 with effect from 1 April 2017.

4. The valuation officer (VO) determined that the proposal was not well-founded and disagreed with the proposed alteration to the list.

5. The appellant appealed to the Valuation Tribunal (VT) against the RV of £44,000.

6. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

7. The appellant's representative was not able to visually connect to the remote hearing. However, he was able to join by telephone and the panel was satisfied that he was able to fully take part in the case hearing.

Issue

8. The RV of the appeal property.

Evidence and submissions

9. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, rental evidence and assessment summaries and the appellant's challenge submission. On 14 March 2023 the VO representative emailed a copy of the lease for the appeal property to the tribunal and the appellant's representative. It was not new evidence as it had been exchanged during the challenge process, it had simply not been attached as part of the VO decision notice.

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):

"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….–"

11. 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.

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

13. The appellant's representative had stated that the best evidence in respect of rateable value, in line with the authoritative and binding Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, was the rent on the appeal property. He stated that the rent was £42,000 per annum with effect from 22 December 2014 for a period of nine years with a three yearly upwards only rent review. Whilst the start date of the lease was 22 December 2014 it was not completed until 27 February 2015.

14. The panel found that that this was compelling evidence in respect of the RV of the appeal property and gave a great deal of weight to it as it was completed just one month before the AVD.

15. The panel also found that the rent, when analysed, was approximately £66/m^2 and this was considerably lower than the analysed rents of the VO's two submitted comparable properties. These were both of the same mode and category as the appeal property and in very close proximity on the same industrial estate.

16. The panel found that this reflected the fact that the appeal property was twice the size of one of the comparable properties and a third larger than the other and therefore that there was clearly an element of quantum.

17. The panel noted that the Lotus judgment required them to examine and consider other rents in the locality. The rents on the VO's comparable properties were effective from 1 December 2013 and 24 June 2014, both considerably further from the AVD than the rental agreement on the appeal property. For this reason the panel found that they carried less weight than the rent on the appeal property.

18. The panel noted that the RV on these two properties was very close to the rental amount but this was not the case for the appeal property as there was a £2,000 difference.

19. For these reasons the panel found that the appellant's case had been proven.

20. In cases of this nature the onus is on the appellant to prove that the valuation of the appeal property was excessive and offer evidence supporting such a contention. The panel found that such evidence had been provided and it was fair and reasonable to reduce the RV to £42,000.

21. The appeal was therefore allowed.

Order

22. Under the provisions of regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Tribunal orders the VO to alter the appeal property's entry in the rating list within two weeks of the date of this order to show a revised assessment of £42,000 with effect from 1 April 2017.

23. 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 (Alteration of Lists and Appeals) (England) Regulations (as amended) provided there is no review of the tribunal's decision. The refund will take around six weeks to process.

Date: 19 April 2023

Appeal number: CHG100723066

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.