THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal (2017 list); Local Government Finance Act 1988; Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

RE: Lok'N Store, Stafferton Way, Maidenhead SL6 1AB

APPEAL NUMBER: CHG100742453

BETWEEN: Lok'N Store Limited Appellant

and

The Valuation Officer Respondent

PANEL: Miss S Ballentine (Presiding Senior Member)
Miss L Westwell (Senior Member)

CLERK: Mr A Johnson Tech IRRV

ON: 13 June 2023

APPEARANCES: Mr A Hair (of Altus Group, representing the Appellant)
Mr A Demetriou (representing the Respondent)

REMOTE HEARING CONDUCTED VIA MICROSOFT TEAMS

DECISION AND STATEMENT OF REASONS

Regulations 36 and 37 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

Summary of decision

1. This appeal was dismissed. The panel was satisfied that the rateable value (RV) of the subject property was reasonable. Consequently, the RV remained unchanged at £297,500 with effect from 1 April 2017.

Introduction

2. This decision notice is not, and does not purport to be, a verbatim record of the proceedings.

3. This appeal had been brought pursuant to regulation 13A of the Non-Domestic (Alterations of Lists and Appeals) (England) Regulations 2009. The subject property entered the 2017 non-domestic rating list with effect from 1 April 2017. It was described as a purpose-built self-storage warehouse which had been built in 2013 and measured 8,356.67m^2. The Appellant's proposal had sought alteration to the 2017 non-domestic rating list on the grounds that the RV for the subject property from 1 April 2017 was not reasonable. The RV was £297,500 and the Appellant was seeking a reduction to £282,500. The Appellant had challenged the Valuation Officer's (VO) decision that the proposal was not well-founded.

4. The representatives of both parties stated that they were appearing in dual roles of advocate and expert witness. Mr Hair declared that he was representing the Appellant on a contingency fee basis and he acknowledged that when presenting evidence as an expert witness, he understood and accepted that his duty was to the Tribunal regardless of whether or not the evidence supported the Appellant's case.

5. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on the above basis as the appeal was not considered to be 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 concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

6. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

Issue

7. The only issue in dispute was the correct RV for the subject property. The Appellant had sought a reduced RV of £282,500 based upon an unadjusted rate (UAR) of £55.00 p/m^2. The overall area of the subject property at 8,356.67m^2 had been agreed between the parties.

Summary of evidence and submissions

8. The evidence before the panel comprised of the information and documents contained within the Appellant's challenge document and the VO's decision notice. Within the Challenge document there had been an allegation that 'pertinent evidence' had been omitted from the VO's Challenge Decision Notice which was in breach of regulation 13(3)(b) of the Non-Domestic Rating

(Alteration of Lists and Appeals) (England) Regulations 2009. Prior to the remote hearing Mr Hair advised the Clerk to the Tribunal that he did not wish to pursue this matter as the information in question would be brought out during oral presentation.

Decision and reasons

9. This was an appeal against an entry in the 2017 rating list and so the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended). The material day in respect of the subject property is 1 April 2017.

10. The starting point for consideration would be the actual rent passing on the subject property. However, no such rental evidence was available because the Appellant was the freehold owner of it.

11. The panel was presented with details of four properties (two from Mr Hair and two from Mr Demetriou) which, like the subject property, were operated as self-storage facilities. These were:

Address	Total area ITMS m^2	RV	Adopted £ p/m^2
Units A & C, Vansittart Estate, Windsor SL4 1SE	1,785.03	£69,000	£40.50
105 Farnham Road, Slough SL1 4UN	6,488.38	£285,000	£65.25
Unit F Dolphin Estate, Windmill Road, Sunbury-on-Thames TW16 7HE	9,538.16	£425,000	£52.25
Building H2, Milton Road, Didcot OX11 7HA	2,514.75	£179,000	£60.00

12. In broad terms, Mr Hair argued that the subject property had been entered in the 2010 rating list with an RV of £260,000 and the increase of approximately 15% to £297,500 (based upon a UAR of £57.50 p/m^2 was excessive). Mr Hair contended that a revised RV of £282,500 (based upon a UAR of £55.00 p/m^2) was reasonable.

13. The panel placed no weight upon Mr Hair's comparison with the 2010 rating list. This was because each rating list is separate and distinct and the RV of each entry should stand upon its own evidence based upon entirely different AVD's.

14. After fully considering the properties put forward for comparison purposes, the panel placed most weight upon 105 Farnham Road, Slough. Whilst this property was approximately 1,868m^2 smaller than the subject property it was closer in age (constructed in 2007). Unlike the subject property it had been adapted for use as a self-storage facility. The passing rent for this property (which the VO had analysed at £63.74 p/m^2) was the result of a rent review on

1 June 2016 in respect of a lease which commenced in 2006 and the UAR of £65.25 p/m^2 had been established following a Challenge which had been well-founded. The panel found this to be good evidence. When adjusting this UAR to take account of the purpose-built nature of the subject property, the differences in age and size, the panel found that a UAR of £57.50 for the subject property was not unreasonable.

15. The passing rent in respect of Unit F, Dolphin Estate (also a property which had been adapted for use as a self-storage facility) was also found to be good evidence. This was the result of a rent review in September 2016 in respect of a lease which commenced in 2001 which had been analysed by both parties to £49.30 p/m^2. Unit F was closer in size to the subject property (being approximately 1,181m^2 larger) but it was older (constructed in 2000). The panel concluded that when adjusting the UAR of £52.25 of Unit F supported a finding that £57.50 for the subject property was not unreasonable.

16. The panel considered Mr Hair's oral submission referencing four unconnected appeals which, he said, ultimately resulted in a revised tone for their locality which was based upon a wider basket of rental evidence. As this was not supported by any documentary evidence and had not previously been exchanged by the parties the panel decided to place no weight upon this submission.

17. After full consideration of the evidence presented by the parties, the panel found that the Appellant had not discharged its legal and evidential burden of proof to demonstrate that the RV of the subject property was unreasonable. The panel's preferred evidence from 105 Farnham Road and Unit F Dolphin Estate was found to support the existing RV.

18. This appeal was therefore dismissed.

Date: 22 June 2023

Appeal Number: CHG100742453

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.