THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; challenge against compiled list entry; hand car wash and premises; accuracy of rateable value; end allowance for access disability; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

RE: F1 Hand Car Wash, Oldham Road, Failsworth M35 0BH

APPEAL NUMBER: CHG100745503

BETWEEN:	Sahand Karim	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent

PANEL: Mrs F Rahman-Cook (Presiding Senior Member)
Mrs AE Fielder (Senior Member)

CLERK: Miss F Willson

REMOTE HEARING ON: 13 January 2023

APPEARANCES: Ms F Aspinall from RVA Surveyors (the representative for the appellant)
Mr L Worthington from RVA Surveyors (expert witness)
Mr D Walker (on behalf of the Valuation Officer).

Summary of decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) of F1 Hand Car Wash, Oldham Road, Failsworth M35 0BH (subject property) at £15,250 with effect from 1 May 2021.

Introduction

2. This was a 2017 rating list appeal in respect of the subject property which arises from a challenge made by the appellant's representative on 10 November 2021. The challenge was in respect of the entry in the rating list at £22,000 RV as 'hand car wash and premises' effective from 1 May 2021. The appellant sought a revised assessment of £11,250 RV with effect from 1 May 2021. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was well founded in part and the RV was reduced to £15,250 and a decision notice to this effect was issued on 17 March 2022. The appellant made an appeal to this Tribunal against the decision notice, which was received on 17 June 2022, on the grounds that the reduced RV of £15,250 was not reasonable.

3. Ms Aspinall appeared on behalf of the appellant as advocate and Mr Worthington as expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Worthington stated that he was instructed under a conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving the evidence and he would comply with this as well as the requirements of the professional body regardless of whether or not the evidence supported their client's case.

4. The subject premises comprises a hand car wash of 533m^2 on the site of an old petrol station situated off a busy Oldham Road which heads from Manchester centre to Oldham and is situated 1.5 miles from Junction 22 on the M60.

5. This Tribunal decision document is not and does not purport to be a verbatim record of 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.

Issue

6. The issue between the parties is the RV of the subject property specifically the rate per square metre and the appellant's request for an end allowance for access disability.

Evidence and Submissions

7. Ms Aspinall submitted a bundle of evidence which included photographs and details of the subject property and comparable properties, her revised RV calculation, copies of correspondence between the parties and her submissions. She submitted that the appeal should be allowed and the RV on the subject property should be reduced to £11,250.

8. Mr Walker referred the panel to the challenge application and decision.

9. In consideration of the comparable properties admitted into evidence, Mr Walker asked the tribunal to confirm the RV of £15,250 with effect from 1 May 2021.

Decision and Reasons

10. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988).

The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 May 2021 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let' and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

11. The panel had regard to the Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141*, as referred to by both parties. This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

(1) 'Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available, they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the VO. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in such circumstances, it would be clearly more difficult to reject the evidence of the actual rent.'

12. Ms Aspinall explained to the panel that the rate per square metre applied to the subject property by the VO was £25/m^2, but she considered that a rate of £18.50/m^2 was more reasonable. The rent on the subject property, which in accordance with the case of *Lotus v Delta* was the first piece of evidence to be considered in the basket of evidence, was £36,000 per annum which was agreed on 31 January 2020 and was agreed by a tenant fresh to the scene. The rent was however five years post AVD and she therefore argued that little weight should be put on that rent. She did not however provide any other rental evidence on other comparable properties to support her submission that the rate applied to the subject property should be reduced to £18.50/m^2.

13. The panel was aware that the case of *Lotus and Delta* did place weight on the rent of the subject hereditament but also went on to confirm that the rent on the subject property was

only the starting point and that a basket of evidence was required to be taken into account when determining an RV.

14. She submitted that there were comparable properties in the locality of the subject property which she stated supported a rate of £18.50/m^2 and they were:

- 1133-1141 Oldham Road which is located on the same road as the subject property. The total area of that property was 672.7m^2 and so was comparable in terms of size to the subject property. The property is however in close proximity to retail units which she argued would increase footfall in comparison to the subject property. The property had a main space rate of £18.50/m^2 and so this, she submitted would support a rate of £18.50/m^2 on the subject property.

- 1 Trafford Road, Eccles was located close to the Trafford Centre and so had a significantly larger footfall than the subject property and she therefore, argued that this property was in a more desirable location. The main space rate on that property is £20/m^2 which she submitted again supported a lower rate for the subject property.

15. The panel was aware that in the case of *Lotus and Delta* the basket of evidence used in the valuing of a property included that of the rate on comparable properties in the vicinity of the subject property. Upon questioning from the panel Ms Aspinall confirmed that she had been unable to provide the rent on the two comparable properties and that the second property was in a different location.

16. The panel further found that in line with the subject property being a hand car wash the footfall at the property would be irrelevant as it was the level of traffic passing and the prominence of the subject property which would affect the likely rent the hypothetical tenant would be considering. The panel therefore put little weight on these comparable properties.

17. Ms Aspinall referred the panel to the access problems at the subject property and submitted that an end allowance of 5% should be applied to the RV of the subject property. The access was shared by two other businesses that occupied the same site. She drew the panel's attention to other properties which had received an end allowance due to access problems:

- Bespoke Wash Ltd, 204 Hall Street, Stockport which had a 5% end allowance due to having to share the access with one other occupier.

- A & H Car Wash, Bury New Road, Heywood which had an end allowance of 5% for access.

- Hand Car Wash at Buersil Service Station, Oldham Road, Rochdale had an end allowance of 10% for access.

She submitted that on that basis the subject property should also have an end allowance of 5% due to shared access.

18. The panel found that the other businesses on the same site as the subject property did not have an end allowance for access and were not contesting their RV. Bespoke Wash Ltd was in Cheshire and therefore not in the vicinity of the subject property and the other business on the same site did not have an access allowance. The panel therefore put little weight on these comparable properties.

19. Mr Walker submitted that the subject property was in a prime position being on the site of a former petrol station and located on a busy main road. The rent on the property was a lease with effect from 1 October 2020 for a period of five years commencing with a rent of £36,000 rising to £40,000 for years two and three and then to £42,000 for years four and five. Mr Walker submitted that the lease was in fact agreed through a connected party and not a tenant fresh to the scene so he submitted that this, in his view, made the lease unreliable as the sole basis for setting the RV.

20. In connection with the main space rate Mr Walker drew the panel's attention to the following comparable properties:

- Regal Beach Ltd at F1 Car Wash has a rent of £12,000 with effect from 1 January 2020. This rent analyses to £111.11/m^2 and the RV is based on a rate of £25/m^2. The property does not have an end allowance for shared access.

- YKH Motors at F1 Car Wash has a rent of £12,000 which analyses down to £30.93/m^2 and the RV is based on a rate of £25/m^2. The property does not have an allowance for the shared access.

Mr Walker submitted that the above properties, which were on the same site as the subject property, supported an RV of £15,250 and demonstrated that it did not qualify for an end allowance for shared access.

21. Mr Walker referred the panel to a schedule of other hand car wash premises in the same area as the subject property. They were all of a similar size and had an adopted rate of between £20/m^2 to £30/m^2. These, he submitted, demonstrated that the main space rate of the subject property of £25/m^2 was reasonable for a hand car wash in that locality. The main comparable put forward by Ms Aspinall being 1133-1141 Oldham Road was, Mr Walker confirmed, in close proximity to the subject property. He argued however that the main space rate was an anomaly when compared to the other comparable properties he had produced and therefore should not be relied upon when determining the RV of the subject property.

22. From the basket of evidence provided by the VO the panel was satisfied that the current assessment of the subject property at an RV of £15,250 was reasonable and the appellant had not provided any evidence to persuade the panel that it was excessive. The appeal is therefore dismissed.

Date: 24 January 2023

Appeal number: CHG100745503

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.