THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; Local Government Finance Act 1988; shop and premises; accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

Re: Unit 30 Cardrew Trade Park North, Cardrew Way, Redruth TR15 1SZ (the "appeal hereditament")

APPEAL NUMBER: CHG100749586

BETWEEN:	E-zec Medical Transport Services	Appellant
	and	
	Alexandra Morley (Valuation Officer)	Respondent

PANEL: Mr I Lonsdale (Presiding Senior Member)
Dr P Thomson (Senior Member)

CLERK: Ms N Shepherd IRRV Hons

REMOTE HEARING 1: Tuesday 17 October 2023

APPEARANCES: Mr J Sweet, of Altus Group on behalf of the Appellant
Mr S Sandell, on behalf of the Respondent

Summary of decision

1. Appeal dismissed. The rateable value (RV) was confirmed at £16,500 from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal brought in respect of the appeal hereditament, which had been entered into the rating list as 'Warehouse and Premises' at £16,500 RV with effect from 1 April 2017.

3. The challenge proposal, submitted by Altus Group on behalf of E-zec Medical Transport Services, was received by the Valuation Officer on 22 November 2021. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised assessment of £14,750 RV was proposed with effect from 1 April 2017.

4. The appeal hereditament is a warehouse and premises situated in a run of six units, built in the late 1980's. It had a total area of 322.26/m^2 and had been valued as part of scheme 315268.

5. The Valuation Officer issued a challenge case decision notice on 1 November 2022, which stated that based upon the evidence and information available, the existing rating list entry was considered to be reasonable, and no amendment would be made.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal had been made on the grounds that the rating list was inaccurate. The appeal was received by the Tribunal on 26 January 2023.

7. As Mr Sweet appeared on behalf of the appellant as both advocate and expert witness and in view of the Upper Tribunal's judgment in Gardiner & Theobald LLP v David Jackson (VO) [2018] UKUT 0253 (LC), Mr Sweet confirmed that he was aware that in giving his evidence his duty was to the Tribunal and that he would comply with this as well as the requirements of his professional body. Furthermore, he confirmed that he was not instructed under a conditional fee arrangement or any other success related fee.

8. In order to assist the tribunal, the parties had agreed all basic facts and the analysis of the competing rental evidence.

9. This was held remotely via Microsoft Teams.

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

Issue

11. The issue for the panel to determine was the RV for the appeal hereditament from 1 April 2017.

Evidence and submissions

12. The evidence comprised all of the information and documents which had been disclosed and exchanged as part of the challenge process.

Decision and reasons

13. In accordance with paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, the appeal property must be viewed vacant and to let and

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. The date of the hypothetical rent is 1 April 2015, the AVD for the 2017 rating list.

14. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

15. Both parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

16. Bearing these six propositions in mind, the panel acknowledged that the correct starting point in this appeal was the actual rent passing on the appeal property and consideration to how that rent compared to the statutory definition of rateable value.

17. Mr Sweet submitted that the rents from 2013 and 2016 relating to the appeal hereditament were the best evidence. He contended that these demonstrated that the current assessment was too high. He submitted that the 2013 rent analysed to £44.65/m^2 and the 2016 rent analysed to £48.86/m^2 and therefore it was reasonable to assume that the rent at the AVD would be somewhere between these two figures and less than the current main space rate of £52.50/m^2.

18. The panel noted that the 2013 rent agreed was on a five-year stepped basis in August 2013. When the appellant took occupation in August 2016, they did so on the rent agreed in 2013. Having regard to the second proposition in *Lotus & Delta* the panel found that the terms of the lease in August 2013 were too far removed from the statutory definition of rateable value and therefore attached little weight to this evidence.

19. The panel then addressed the other comparable evidence submitted. Mr Sweet presented details of a number of other warehouses within the locality he considered supported a lower RV for the appeal hereditament. The panel noted Units E4 & E5 Formal Industrial Park were older than the appeal hereditament, in a different location and scheme and were of inferior quality. As such, it attached little weight to these properties.

20. 28 Cardrew Trade Park North had a form of return provided in 2012 which showed the annual rent to be £12,500, which analysed to £24.61/m^2. There had been a new lease with effect from June 2016 for £20,000 pa, which analysed to £43.04/m^2.

21. The panel noted this property was larger than the appeal hereditament and in a different quantum band at £50/m^2. The panel was also aware that the 2016 lease had a Schedule of Condition which referred to multiple parts of the property being in a dilapidated condition. The panel considered that due to the condition of the property the rental value being less than £50/m^2 was to be expected. As such, the panel did not consider that this property supported a lower assessment for the appeal hereditament; however, it did find it to be useful in demonstrating the increase in rental values between 2012 and 2016 within the locality.

22. The panel then considered the evidence which had been provided in respect of the other five units within the same run as the appeal dwelling. In particular, the rents of 31 and 32 Cardrew Industrial Estate North which had been agreed closest to the AVD (on 1 April 2016 and 1 June 2016 respectively). Both were smaller than the appeal hereditament with 31 Cardrew North having a total area of 185.10m^2 and 32 Cardrew North having a total area of 181.40m^2. Both had rental values of £12,000, which analysed to £64.17/m^2 and £66.15/m^2 respectively. Both had a main space rate of £60.00/m^2. Taking these into account the panel concluded that, after allowing an element for quantum an unadjusted rate of £52.50 p/m^2 for the subject unit was not unreasonable.

23. Having considered both parties' evidence and analysis, the panel concluded that the main space rate of £52.50/m^2 was not excessive. In cases of this nature, it is for the appellant to demonstrate that the RV is unreasonable, and the panel found that in this case the appellant had not done so.

24. The appeal is therefore dismissed.

Date: 13 November 2023

Appeal Number: CHG100749586

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.