THE VALUATION TRIBUNAL FOR ENGLAND

*Non-domestic rating; 2017 rating list appeals; 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; Appeals dismissed.*

RE: Hilton Park, Church Farm Lane, East Wittering, Chichester, West Sussex PO20 8RL

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| APPEAL NUMBERS: | CHG100752119 | Unit A1 |
| | CHG100752114 | Units B3, B5 and Unit C |
| | CHG100752800 | Units F1 and F2 |
| | CHG100752737 | Units G1, G3 and Unit N |

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| BETWEEN: | Snowhill Ltd | Appellant |
| | and | |
| | Ms Dawn Bunyan (Valuation Officer) | Respondent |

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| BEFORE: | Mrs Amanda Adeola | (Chair and Senior Member) |
| | Mrs Fiona Duggan | (Senior Member) |

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| CLERK: | Mr Duncan Adamson IRRV (Hons) | |
| REMOTE HEARING 1: | 10 July 2023 | |
| PARTIES PRESENT: | Mr Barnaby O'Neill | |
| | of ALTUS Group | Appellant's representative |
| | Mr Stuart Britton | Respondent's representative |

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**Summary of decision**

1. Appeal dismissed. The Rateable Value (RV) of the appeal properties were confirmed as follows with effect from 1 April 2017:-

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| CHG100752119 | Unit A1 | £16,500 |
| CHG100752114 | Units B3, B5 and Unit C | £78,000 |
| CHG100752800 | Units F1 and F2 | £20,250 |
| CHG100752737 | Units G1, G3 and Unit N | £70,500 |

## Introduction

3. These appeals had been brought in respect of the following: the appellant was the non-domestic rates payer of the appeal properties at Units A1, B3, B5, C, F1, F2, G1, G3 and Unit N at Hilton Park, Church Farm Lane, East Wittering, Chichester, West Sussex PO20 8RL.

4. The appeal properties were industrial premises built in the late 1980's on a small estate in East Wittering. Through the Check, Challenge, Appeal (CCA) process the appellant proposed that the appeal properties be valued at the same value as they were in the 2010 list giving the resultant RV's.

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| Unit A1 | £9,400 |
| Units B3, B5 and Unit C | £43,750 |
| Units F1 and F2 | £11,250 |
| Units G1, G3 and Unit N | £39,750 |

5. The challenge was completed on 20 October 2022 and the valuation officer (VO) disagreed with the proposal. The appellant appealed to the Valuation Tribunal on the grounds that, because of the dearth of evidence in the immediate locality and in view of the evidence they have found in the wider locality, the £/$m^2$ should be the same as it was for the 2010 list.

6. Mr Barnaby O'Neill appeared on behalf of the appellant as expert witness and advocate. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), his declaration of truth included a statement that he was instructed on a contingency fee basis. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body, regardless of whether or not the evidence supported the client's case.

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

8. This is not intended to be an exhaustive record of the proceedings. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

## Issue

9. The RV of the appeal properties.

## Evidence and submissions

10. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's challenge decision notice, assessment summaries and the appellant's challenge submission.

## Decision and reasons

11. 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). 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 panel referred to the hierarchy of rental evidence that should be used to determine the RV of the appeal property as detailed in the authoritative and binding Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. In addition, the RV's of other comparable properties should be considered.

14. The panel noted that the appellant was the freeholder of the appeal properties and there was therefore no rental evidence for them.

15. The appellant's representative had stated that there had been no increase in the market for properties such as these from 1 April 2003 to April 2015. Given the dearth of other rental evidence, he proposed that the rate for the 2017 rating list should be reduced accordingly. However, the panel noted that the unadjusted rate for one of the properties was £50/$m^2$ in the 2005 list but £55/$m^2$ in the 2010 list and further noted that the comparable properties submitted by the appellants' representative showed an increase in the £/$m^2$ between the two lists.

16. The panel found that there had clearly been an increase in market value between the lists.

17. The panel noted the rental evidence in respect of four properties submitted by the VO and the respective £/$m^2$ values. These values were in line with the current assessments on the appeal properties and the panel found them to be good evidence supporting the valuation of the appeal properties.

18. The panel noted that the rental agreements were in reasonable proximity of the AVD of 1 April 2015 and therefore held that reasonable weight could be attributed to them.

19. The panel also noted some of the comments made in respect of them for example, that the rental agreement on unit M2 Hilton Park was between connected parties, a pension fund. However, the panel found that the rent was comparatively high for such an arrangement and, as such, could reasonably be relied on.

20. Overall, the panel found that the assertion of the appellant's representative that the market had remained static since 2003 and that the appeal property valuations should therefore be the same as earlier lists was not proven. There was evidence provided to the panel to prove that there had clearly been movement in the market during that period.

21. The panel found that the rental evidence provided by the VO was sufficient to support the valuations of the appeal properties.

22. In cases such as this the onus is on the appellant to show that the valuations should be reduced, however, the panel was not provided with sufficient evidence to show that this was the case.

23. The RV's were confirmed as the following with effect from 1 April 2017.

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|---|---|
| Unit A1 | £16,500 |
| Units B3, B5 and Unit C | £78,000 |
| Units F1 and F2 | £20,250 |
| Units G1, G3 and Unit N | £70,500 |

24. The appeals were therefore dismissed.

**Date:** 31 July 2023

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| **Appeal numbers:** | CHG100752119 | Unit A1 |
| | CHG100752114 | Units B3, B5 and Unit C |
| | CHG100752800 | Units F1 and F2 |
| | CHG100752737 | Units G1, G3 and Unit N |

**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.