THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Base Rate; Appeal dismissed.

Re: Units 1 & 2, Barlow Street, Worsley, Manchester M28 5BN

APPEAL NUMBER: CHG100769542

BETWEEN:	Barlow Street Motors	Appellant
	and	
	Ms Amanda Hitchings (Valuation Officer)	Respondent

PANEL:	Mr Mike Heslop-Mullens (Chair)
	Mr Alan Wheeler
CLERK:	Mr Duncan Adamson IRRV (Hons)
REMOTE HEARING 1:	14 December 2022
PARTIES PRESENT:	Mark Bates of FCS Nationwide Ltd representing the appellant
	Mr James Varley representing the Valuation Officer

Summary of decision

1. The appeal was dismissed. The rateable value (RV) of the hereditament was confirmed as £20,500 with effect from 1 April 2017.

Introduction

2. This 2017 compiled list appeal had been brought in respect of the property at Units 1 & 2, Barlow Street, Worsley, Manchester M28 5BN occupied by Barlow Street Motors. The rateable value was £20,500 with effect from 1 April 2017 on a base rate of £32.50/m^2. The appellant's representative sought for the base rate to be reduced to £27.50/m^2 thus reducing the RV to £17,500.

3. The property was a workshop and premises with a floor area of 631.76m^2.

4. 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.

Issues

5. The base rate and RV of the hereditament.

Evidence and submissions

6. The evidence bundle submitted by the respondent comprised of all of the documents exchanged between the parties as part of the challenge process, the VO's challenge case decision notice and the appellant's challenge submission.

7. The appellant's representative stated that the valuation of the appeal property did not reflect the rental value of the appeal property at 1 April 2015. The base rate should be reduced to £27.50/m^2 in line with comparable properties that were of the same construction and similar age.

8. The appeal property's rent was £15,000 per annum (p.a.) and had been so since 2013.

9. Unit 3B, Holloway Drive, Worsley M28 2LZ was submitted as a comparable as it was a lease renewal from 20 April 2015 for £30,000 p.a. and its RV was £35,500. The base rate for this property was £27.50/m^2.

10. The VO representative had submitted three properties as comparable in support of the RV on the appeal property.

11. He stated that the rent on the appeal property was between connected parties as stated on the Form Of Return (FOR) and so could not be relied on.

12. The property submitted as comparable by the appellant's representative was twice the size of the appeal property, was an industrial building and therefore not comparable.

Decision and reasons

13. The panel referred to the Local Government Finance Act 1988. The term 'rateable value' being defined in paragraph 2(1), Schedule 6 to the Act:

    "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 on these three assumptions –"

    a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

    b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above".

14. 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 AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

15. In reaching its decision, the panel had regard to the Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This case had established six propositions giving 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 is 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 Valuation Officer. 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.

16. The panel was bound by the *Lotus and Delta* case and found that, as the rent on the appeal property was between connected properties, it was not an open market rental agreement and was of limited significance. The panel therefore gave it little weight.

17. The panel referred to A & B Motors, adjacent to the appeal property and similar in size. It was leased on a renewal basis on 1 May 2018 for a period of 5 years at a rent of £28,000 p.a. that analysed to a base rate of £40.76/m^2. Its RV was assessed on a base rate of £32.50/m^2, the same as the appeal property. The panel found that this was very good supporting evidence for the appeal property's base rate.

18. The panel also referred to Unit 3B, Barlow Street. It was approximately half the size of the appeal property and had a rent due of £7,200 p.a. Its RV was based on a base rate of £37.50/m^2 and the panel found that this was good supporting evidence for the appeal property's base rate.

19. The panel noted the comparable property at Unit 3B, Holloway Drive that had been submitted by the appellant, however, it was an industrial property, quite different from the appeal property, more than twice its size and nearly 3 miles away. For these reasons the panel did not find it a useful comparator and therefore attached little weight to it.

20. The panel found that the appellant's case had not been proven. 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.

21. The panel found that the RV of the hereditament was fair and reasonable and confirmed £20,500 with effect from 1 April 2017.

22. The appeal was therefore dismissed.

Date: 10 January 2023

Appeal number: CHG100769542

Rights of appeal

Any party who is aggrieved by the Tribunal's decision has the right of appeal to the Upper Tribunal on a question of law. Any such appeal should be made within four weeks of the date of this decision notice.