THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; Local Government Finance Act 1988; Access; End Allowances carried forward between lists; Comparable assessments; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Appeal dismissed.

RE: Pargat & Co Ltd, Dartmouth Road, Smethwick, West Midlands B66 1AX

APPEAL NUMBER: CHG100770214

BETWEEN:	Pargat & Co Ltd	Appellant
	and	
	Alexandra Morley (Valuation Officer)	Respondent
BEFORE:	Mrs Maxine Cole	(Chair and Senior Member)
	Mr Philip Blythe-Bartram	(Senior Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 3:	26 October 2023	
PARTIES PRESENT:	Mr Paul Wintle of Paul Wintle & Co Chartered Surveyors	Appellant's representative
	Mr Mohammed Latif	Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £387,500 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of the following: the appellant was the non-domestic rates payer of the appeal property at Pargat & Co Ltd, Dartmouth Road, Smethwick, West Midlands B66 1AX.

3. The RV of the property was originally £407,500 and the appellant had proposed that that was excessive and should be reduced to £377,500 with effect from 1 April 2017.

4. The valuation officer (VO) found the proposal not well-founded and disagreed with the proposed alteration of the list. However, the VO did find the rating list entry unreasonable based on the evidence and information available and amended the entry giving an end allowance of 5% for access issues for the whole of the property thereby reducing the RV to £387,500.

5. The appellant appealed to the tribunal on the basis that the appeal property's RV was £377,500 in the 2010 rating list and should be the same with the end allowances being carried forward to the 2017 list. The end allowances in the 2010 list were 5% for the overall size of the property (quantum) and a 7.5% allowance for one large bay, the 2014 extension to the appeal property, having only internal access. This was agreed by the VO with an effective date of alteration of 6 May 2014 from a proposal by Mr Paul Wintle on 27 March 2015.

6. The appeal property was a detached portal building originally constructed in 1998 and was 9,693m^2 in area. The extension was constructed of block and glass walls and was valued within the VO scheme 418780 on a base rate of £42.00/m^2.

7. Mr Paul Wintle 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.

8. Mr Mohammed Latif appeared on behalf of the VO as advocate and expert witness. 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 the evidence supported the respondent's case or not.

9. 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.

10. Initially, the appellant's representative was unable to connect to the Remote online Teams meeting but was able to satisfactorily participate in the hearing by telephone. Later on in the hearing he joined using the Teams link which provided him with the combined video and audio link.

11. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Preliminary issue

12. On 17 July 2023 the appellant's representative submitted further evidence to the tribunal that he wished to rely on and this was forwarded to the VO for their consideration. The late evidence comprised of:

- An agreement offer for another hereditament dated 17 February 2022.

- Information pertaining to the subject hereditament regarding the 2010 list (The documentation is dated 2017)

13. On 18 July 2023 the respondent's representative objected to the inclusion of the new evidence on the grounds that the appellant had the opportunity to provide some of the evidence as part of the information exchange process at the challenge stage of the Check, Challenge, Appeal process and also that some of it would have been known to the appellant during the information sharing process.

14. The new evidence was presented to the senior member on 7 August 2023 prior to the hearing of 14 August 2023 who made the following decision:

    "The agreement offer to be allowed as it was received after the appellant's representatives challenge.

    The information submitted from 2017 was known at the time of challenge and is rejected."

15. There was also an additional challenge submitted to reduce the RV to £346,000 but as it was outside of the Tribunal's required timeframe of four weeks prior to the hearing it was also rejected.

16. The hearing on 14 August 2023 was adjourned as the panel found that the parties were not ready for tribunal as the matters in dispute had not been sufficiently clarified. Directions were issued.

17. The Senior Member's decision was forwarded to the parties on 25 October 2023.

Issue

18. The RV of the appeal property.

Evidence and submissions

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

20. The respondent's representative had stated that the end allowance of 5% for access was reasonable but that further allowances were unwarranted as they had not been supported by any suitable valuation evidence. However, he also stated that the 5% access allowance in the 2017 list was for the entire hereditament which was a greater reduction than the 7.5% access allowance just for the extension.

21. The appellant's representative agreed that the 5% had been given in the 2017 list but also submitted that the 7.5% end allowance for the newest part of the appeal property, the 2014 extension, should be deducted first and the 5% for the whole of the property be deducted from that resultant RV.

Decision and reasons

22. 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. The material day for this appeal was 1 April 2017.

23. The panel also 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. This case had established six propositions that gave clear guidance to be followed when assessing rateable value.

24. However, the panel noted that the appellant's representative had consistently stated that the end allowances given for the 2010 rating list entry should have been carried forward to the 2017 rating list entry as the reasons why they had been given remained in place. There had been an administrative oversight by the VO.

25. The panel understood his position particularly as he appeared in the belief that this was what had been agreed with the VO. He had also stated that all allowances were carried forward for industrial properties in this area.

26. However, the panel was aware that each rating list stands on its own merit and is based on evidence at the relevant AVD, in this case, 1 April 2015. Any contention for an allowance in any rating list must be supported by evidence pertinent to the situation at the AVD, there is no legislative requirement for allowances given in one rating list to be automatically carried forward to a subsequent rating list. The panel did not find sufficient evidence had been presented to demonstrate that an allowance should be given in the 2017 list entry.

27. Notwithstanding the panel's findings the appellant's representative maintained that a further allowance for quantum was due in respect of the size of the whole of the property. He stated that the appeal property had a gross internal area of 9,590m^2 and was 50% larger than the properties he had submitted as comparable to the appeal property.

28. The panel noted the following properties:-

    Concept Flooring Supplies and Jayplas Recycling both on Dartmouth Road, Smethwick were smaller, valued in the same scheme and in the same postcode area as the appeal property. However, whilst both had an end allowance for no heating no other allowance had been given.

    M1 Glass Limited at 51 Downing Street, Smethwick was valued in a different scheme at £31/m^2 and had an end allowance of 5% for access.

    Monks & Crane Plc, Doranda Way, West Bromwich and Stairlift Ltd in Vector Industrial Park were in the same scheme as the appeal property and valued at the same base rate of £42.00/m^2. Neither property had end allowances.

    45 – 49 The Bridge Trading Estate, Smethwick was valued in a different scheme at £34/m^2 and had a 2.5% end allowance for no heating but no other allowances.

3A Ridgacre Enterprise Park, West Bromwich, also valued in a different scheme and at £28/m^2 did not have any end allowances.

29. On the whole, the panel found that these properties did not support any allowance for quantum for the appeal property.

30. The panel noted the reference to the size of the property and was presented with properties that were similar in size to the appeal property:-

    Arcelormittal Tailored Blanks Birmingham Ltd was 9,672m^2, very similar in size to the appeal property and of a similar age, was valued at £42/m^2. It had a 2% allowance for layout but no quantum allowance.

    A Mir & Co. Ltd, Mir House, again, valued at £42/m^2, had a 5% end allowance for layout but no quantum allowance.

    2 Sisters Food Group in West Bromwich, smaller than the appeal property at 7,967m^2 and valued at the same rate of £42/m^2 did not have any allowances.

31. The panel found that these properties were comparable but had no allowances for quantum and therefore did not support any such allowance for the appeal property.

32. Further, the panel noted the property at Steel and Alloy Processing in Oldbury, slightly larger than the appeal property at 10,248m^2 and valued at £42/m^2. This was the only property submitted that was larger than the appeal property but did not have any allowance for quantum and therefore further supported the current valuation of the appeal property.

33. The panel referred to the *Lotus and Delta* case and noted that the appellant's representative had not provided any rental evidence in respect of the appeal property or comparable properties and found that this did not support his case.

34. In appeals of this nature, the burden of proof was on the appellant to provide evidence to demonstrate that a further end allowance for quantum was due. However, having regard to the evidence before it, the panel found that there was little evidence provided and therefore confirmed that the appeal property had been correctly valued at £387,500 RV with effect from 1 April 2017.

35. The appeal was therefore dismissed.

Date: 22 November 2023

Appeal number: CHG100770214

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.