

THE VALUATION TRIBUNAL FOR ENGLAND



Non-domestic rating; 2017 rating list appeals; Local Government Finance Act 1988; Unadjusted rate per m² in dispute; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Comparable assessments; Appeal dismissed.

RE: Horton House, Halesfield 19, Telford, Shropshire TF7 4QT

APPEAL NUMBER: CHG100771913

BETWEEN: Hartman Outdoor Products UK Ltd Appellant
and
Ms Alexandra Morley Respondent
(Valuation Officer)

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

CLERK: Mr Duncan Adamson IRRV (Hons)

REMOTE HEARING 1: 10 July 2023

PARTIES PRESENT: Mr Thomas Hogg Appellant's representative
of ALTUS Group
Ms Rachel Pike Respondent's representative

Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the appeal property was confirmed as £60,000 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 Horton House, Halesfield 19, Telford, Shropshire TF7 4QT.
3. The appeal property was a warehouse and premises on the Halesfield Industrial Estate, an established business park with all amenities and good connectivity to the national road network.

4. Through the Check, Challenge, Appeal (CCA) process the appellant's representative proposed that the appeal property should be valued on a rate of £25/m² instead of £28/m². This would reduce the RV of the property to £53,500.
5. The challenge was completed on 23 September 2022 and the valuation officer (VO) determined that the proposal was not well-founded. The appellant appealed to the Valuation Tribunal.
6. Mr Thomas Hogg 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 property.

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 case decision notice, assessment summaries and the appellant's challenge submission.
11. The appellant's representative advised the tribunal that some rental evidence submitted in the original challenge had been omitted from his evidence statement. This was not new evidence. The VO was already aware of this evidence. The panel was made aware of the correction.

Decision and reasons

12. 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.
13. The material day for this appeal was 1 April 2017.

14. 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.
15. The panel noted the reference by the appellant's representative to Units D and F on the same estate as the appeal property. These entered the rating list at a rate of £28/m² but were reduced by settlement to £25/m² and it was proposed that the appeal property should also be so reduced. The panel found these to be reasonably comparable to the appeal property but they were considerably larger and were likely to be subject to quantum. Several other properties were also proposed as comparable to the appeal property.
16. However, the panel found that the rent on the appeal property itself provided the best evidence of its valuation, this was in accordance with the Lotus case. A new open market rental was agreed on 4 November 2013 for £65,000 per annum and this analysed at £30.60/m². This was 16 months before the AVD and whilst the panel found that not to be ideal, it was more than sufficient to support a rate of £28/m² for the appeal property. The panel found this to be the most compelling evidence for the valuation of the appeal property.
17. The panel noted the rents, analysed rents and £/m² rate of two other properties on the same estate, Units C and D and Unit A – B and found this evidence to be supportive of a rate of £28/m². One of the rental agreements, Units C and D, was only six months from the AVD and the panel found this to be the more significant.
18. The panel also noted the property immediately neighbouring the appeal property, Unit A - B occupied by Pelloby Ltd. This was valued on a rate of £28/m² and the panel found that this supported the valuation of the appeal property.
19. The panel found that whilst the appellant's representative had provided some comparable evidence the rental agreement on the appeal property was the best evidence for its valuation.
20. The panel therefore confirmed the RV as £60,000 with effect from 1 April 2017 and dismissed the appeal.

Date: 31 July 2023

Appeal number: CHG100771913

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.