THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; Local Government Finance Act 1988; Access; End Allowance; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Comparable assessments; Appeal allowed.

RE: Unit 8, Restwell House, Coldhams Road, Cambridge CB1 3EW

APPEAL NUMBER: CHG100791793

BETWEEN:	Plurabelle Books Limited	Appellant
	and	
	Dawn Bunyan (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 Oli Plumley of Altus Group	Appellant's representative
	Mr Amandeep Singh	Respondent's representative

Summary of decision

1. Appeal allowed. The Rateable Value (RV) of the appeal property was reduced to £14,500 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 Unit 8, Restwell House, Coldhams Road, Cambridge CB1 3EW.

3. The appeal property was an industrial unit in Cambridge, built between 1955 and 1964. It was a portal frame unit made from brick and performance profile metal and had a total area of 298.35m^2.The RV of the property was £18,500 and the appellant had proposed that it was

over-assessed and should have been assessed on a rate of £63.50/m^2 instead of £80.44/m^2 thereby reducing the RV to £14,500 with effect from 1 April 2017.

4. The valuation officer (VO) disagreed with the proposed alteration of the list and the appellant appealed the VO's decision to the tribunal.

5. Mr Oli Plumley 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.

6. Mr Amandeep Singh 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.

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 it would be admissible in a civil trial or not). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Issue

9. The rateable value 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 submitted that the main evidence for the reduction of the unadjusted rate was the rent on the appeal property. A six-year lease had been agreed from 1 February 2014 at a rent of £12,000 for the first year, increasing to £16,000 for the next two years until the rent was reviewed on 1 February 2017. He had analysed this to £63.51/m^2 and this should be the base figure for the valuation calculation and would give £14,500 as the RV.

12. The respondent's representative had also stated that the main evidence should come from the appeal property and had analysed the 2014 rent to £65.83/m^2. He stated, however, that there were some elements of the rent information that meant it could only be considered as medium weight. For the 2014 rent, this was because of the landlord externally repairing the property.

13. Besides the 2014 rent, he had also referenced the 2017 and 2020 rents stating that the 2017 rent, as it coincided with the 3-year rent review from the new letting, suggested that the property was then valued on a negotiated rent rate and the 2020 rent was a stepped rent arrangement from a lease renewal.

14. For these reasons, he submitted that the rents on two other comparable properties should be considered, that of Automech and of Unit 1A Coldhams Road.

Decision and reasons

15. 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.

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

17. 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. 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.

18. The panel noted that both parties had stated that the best evidence was the rent on the subject property. In this respect, the panel noted that the 2014 rent was close to the AVD of 1/4/2015 (14 months prior) and was the only open market new letting submitted by either

party. For these reasons, the panel found that this rent should be the basis of valuation for the appeal property as it would be in line with established case law.

19. The panel noted that the VO had argued that only moderate weight should be applied to the 2014 rent as it included the landlord externally repairing the property and, further, that the appeal property's later rents at 1/2/2017 and 1/2/2020 meant only medium evidential weight could be ascribed to it.

20. However, the panel noted that these rents were nearly two years and nearly five years away from the AVD respectively and therefore found that less weight should be given to them and they should not outweigh the 2014 rent.

21. The panel also noted the VO's reliance on two other properties and their rents, however, the panel found that these should be given less evidential weight than the appeal property 2014 rent, particularly more so as one was a lease renewal and one was a rent review. In summary, the VO comparable rents had greater drawbacks as evidence than the appeal property.

22. The panel therefore found that the appeal property should be valued at a rate of £63.50/m^2 with the valuation as follows:

Floor	Description	Area m^2	Base Rate £/m^2	Value
Ground	Warehouse	201.88	60.63	£12,239.98
Ground	Warehouse	96.47	61.91	£5,972.46
				£18,212.44
			-15% allowance for access	£2,731.87
			-5% allowance for services shared	£910.62
				£14,569.95
			Rateable Value	**£14,500**

23. The appeal was therefore allowed and the RV was confirmed as £14,500 with effect from 1 April 2017.

Order

24. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, S.I. No. 2269 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in respect of Unit 8, Restwell House, Coldhams Road, Cambridge CB1 3EW to an RV of £14,500 with effect from 1 April 2017.

25. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 22 November 2023

Appeal number: CHG100791793

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.