VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; Local Government Finance Act 1988; Price per m^2 in dispute; Lotus and Delta v Culverwell (VO) [1976] RA 141; rental evidence; comparable assessments; Appeal allowed in part.

APPEAL NUMBER: CHG100808503

BETWEEN: Shuttle Bridge Logistics Limited — Appellant

And

Dawn Bunyan
(Valuation Officer) — Respondent

RE: Unit 8D, Beaver Industrial Park, Brent Road, Southall, Middlesex UB2 5FB

PANEL: Mr Stephen Wood (Presiding Senior Member)
Mr William Read (Senior Member)

CLERK: Mr Duncan Adamson IRRV (Hons)

SITTING ON: 26 February 2024 (Remote Hearing number 1)

APPEARANCES: Mr Alistair Moore of Altus Group plc representing the appellant

Mr Jason Balogun for the respondent

Summary of decision

1. Appeal allowed in part. The Rateable Value (RV) of the appeal property was reduced to £35,250 with effect from 1 April 2017.

Introduction

2. This 2017 rating list appeal had been brought in respect of the following: the appellant was the non-domestic ratepayer of the appeal property Unit 8D, Beaver Industrial Park, Brent Road, Southall, Middlesex UB2 5FB.

3. The property had been entered in the 2017 rating list as a warehouse and premises with an RV of £39,750 based on a rate of £105/m^2 with effect from 1 April 2017.

4. The challenge proposal was submitted on behalf of Shuttle Bridge Logistics Limited and was received by the Valuation Officer (VO) on 19 May 2022. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was unreasonable and a revised RV of £30,500 based on a rate of £80/m^2 was proposed with effect from 1 April 2017.

5. The VO issued a challenge case decision notice on 13 July 2023 which stated that, based upon the evidence and information available, the rating list entry was unreasonable but disagreed with the entry proposed. The VO reduced the RV to £38,000 based on a rate of £100/m^2.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 13 September 2023. The appellant now sought an RV of £34,250 based on a rate of £90.00/m^2.

7. Mr Moore appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC) he confirmed that he was instructed under a conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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 Balogun appeared on behalf of the respondent as both advocate and expert witness. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

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).

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

11. The appeal property was an industrial unit 371m^2 in area built in 2008 on Beaver Industrial Estate in the west of Southall.

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

Issue

13. The issue in dispute is the price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

14. The bundle comprised all of the documents exchanged between the parties as part of the challenge process including the appellant's challenge submission, initial response to the challenge and the VO's challenge case decision notice.

15. On behalf of the appellant, Mr Moore stated that, in accordance with the hierarchy of evidence as outlined in the *Lotus* case, the rent on the subject property should be the starting point when determining rateable value. The appeal property was let on a lease renewal for a period of three years effective from 2 December 2017 on an annual rent of £35,376. He had analysed this on a value of £34,476, after removing the car park space values, on an in terms of main space (ITMS) of 371.54m^2 at £92.79/m^2. This was two and a half years after the AVD but analysed lower than the current rate of £100/m^2.

16. He had also referred to an earlier rent for the appeal property provided by the VO of a new lease effective from December 2014 for a three year term. He had analysed the passing rent of £30,016 to £71.10/m^2. This transaction was closest to the AVD out all of the comparables in the basket of evidence.

17. For these reasons he contended that the unadjusted rate be reduced to £90/m^2 giving an RV of £34,250 with effect from 1 April 2017.

18. On behalf of the VO, Mr Balogun also referred to the *Lotus* case which required the valuer to refer to rents of similar properties as well as the rent agreements on the appeal property.

19. The letting of the appeal property contained a clause that the unit could only be used for storage which, in his opinion, meant that its desirability and therefore its value in the open market was reduced. He contended that this could explain why it was out of line with other open market rents in the locality close to the AVD and he therefore placed little weight on this evidence.

20. He referred to the basket of rents of similar properties in the locality and their rent agreements and analysis and contended that these supported the current valuation of £100/m^2 and RV of £38,000.

Decision and reasons

21. 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). The rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2015 (the "antecedent valuation date"). The material day for this appeal was 1 April 2017.

22. The panel noted that both parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

23. The panel also had regard to this judgment and noted that the case had established six propositions which gave clear guidance to be followed when assessing rateable value:

    (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 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 1976 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 subject property, 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.

24. The panel noted that the rental agreement was a new lease dated 1 December 2014, just four months before the AVD and that both parties had analysed the rent to £71.10/m^2, a figure well below the current valuation and those of other comparable properties.

25. The respondent’s representative had argued that this rental value analysis was out of line with other properties in the locality because the unit could only be used for storage, however, no direct evidence had been produced to show how much its valuation had decreased due to only being able to be used for storage.

26. For these reasons the panel found that this rent supported a reduction from the current value of £100/m^2 but that £71.10/m^2 was not reasonable as such a low value was out of line with other rents in the locality.

27. The panel noted the rent agreement of 2017 had been analysed by the appellant’s representative to £92.79/m^2, again, lower than the current valuation, however, it was nearly three years after the AVD and was a lease renewal. The panel found that whilst this supported a reduction in the rate on the appeal property much less weight was given to it for these reasons.

28. The panel was presented with a summary of comparable assessments and rental evidence.

29. The panel found that 1st Floor Units 3e and 3f and Ground Floor Unit 3f were not useful comparables for the valuation of the appeal property as they were all considerably smaller. They were all also open ended agreements as was Unit 5c and the panel therefore gave them all little weight.

30. Unit 6a was an agreement between connected parties and was found by the panel to be the least useful.

31. Unit 1, Rowdell Road was nearly six times the size of the appeal property and its rental agreement was over two years prior to the AVD. It was also valued on a rate different to the other comparables at £90/m^2 and for these reasons the panel attached little weight to this evidence.

32. The 2012 rent on Unit 2, Rowdell Road, although twice the size of the appeal property, analysed to £90.04/m^2. The panel found this evidence to be useful but noted that it had the downside of the rental agreement being nearly three years prior to the AVD.

33. Unimar House, although being more than three times the size of the appeal property was let on a new lease from 1 November 2015, only seven months after the AVD and the rent had been analysed by the VO to £86.40/m^2, a value substantially less than the current rate on the appeal property. The panel found that this was reasonable evidence and gave some weight to a reduction in the appeal property rate.

34. Unit 5d was let on a new lease two years prior to the AVD. The rent analysed to £98.22/m^2 and the panel found that this evidence supported a reduction in the rate on the appeal property.

35. Both parties had analysed the rent of Unit 2b to £91.86/m^2 and the panel found this to be useful evidence in supporting a reduction in the rate on the appeal property but the panel also had to take into account that it was twice the size of the appeal property and its rental agreement was over two years prior to the AVD.

36. Unit 23, Derby Road was also twice the size of the appeal property. Its rental agreement was less than two months prior to the AVD and the rent analysed to £92.86/m^2. The panel found this to be good evidence in supporting a reduction in the rate on the appeal property.

37. Overall, the panel found that sufficient evidence had been produced to show that the appeal property was overvalued on an unadjusted rate of £100/m^2 and found that a rate of £92.50/m^2 was reasonable giving a rateable value of £35,250 with effect from 1 April 2017. The appeal was therefore allowed in part.

Floor	Description	Area m^2	£/m^2	Value (£)
Ground	Warehouse	204.13	92.50	18,882.03
Ground	Warehouse (below 1st Floor)	70.09	78.63	5,510.83
Ground	Reception / Entrance	12.95	111.00	1,437.45
First	Office	41.01	101.75	4,172.77
First	Office	39.31	111.00	4,363.41
	Surfaced open spaces	3.00	300.00	900.00

35,266.49

Rounded to £35,250

Order

38. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 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 8D, Beaver Industrial Park, Brent Road, Southall, Middlesex UB2 5FB to an RV of £35,250 with effect from 1 April 2017.

39. A refund of the paid fee will now be arranged (Regulation 13E of the Non-Domestic Rating (Alteration of Lists & Appeals) (England) Regulations 2009. Provided there is no review of the Tribunal's decision the refund will take around six weeks to process.

Date: 25 March 2024

Appeal number: CHG100808503

Right of further appeal

Any party who is aggrieved by the Tribunal's decision and who appeared or was represented at the hearing 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.