VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; relativity to be applied in dispute; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Comparable assessments; Appeal dismissed.

APPEAL NUMBER:	CHG100812246
RE:	Unit 1G, Sapper Jordan Rossi Park, Baildon, Shipley, West Yorkshire BD17 7AX (the “subject property”)

BETWEEN:	International Moisture Analysers Limited	Appellant
	and	
	Joanne Moore IRRV (Hons) (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	23 September 2024
BEFORE:	Mr SP Wood, Presiding Senior Member Mr SC Kamalan, Senior Member
CLERK:	Mrs J Routledge IRRV(Tech)
APPEARANCES:	Mr M Iles of Altus representing the Appellant. Mr H Hussain representing the Respondent.

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel was satisfied that the Rateable Value of £16,000 from 2 November 2018 for the subject property was reasonable.

Introduction

3. This was a 2017 rating list appeal. The challenge proposal was submitted by Altus on behalf of International Moisture Analysers Limited and was received by the Valuation Officer on 25 May 2022. It had been made on the grounds that the RV shown in the rating list was not reasonable. A revised RV of £11,500 was proposed with effect from 2 November 2018.

4. Following the check the Valuation Officer accepted that the eaves height of 3.16 metres restricted the racking that could be installed and allowed a 5% adjustment to reflect this disadvantage, the RV was reduced to £16,000 from 2 November 2018.

5. The Valuation Officer issued a challenge case decision notice on 31 March 2023 which stated that based upon the evidence and information available, the base price of £55.00 per m^2 in the rating list entry was reasonable.

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 was not reasonable. The appeal was received by the Tribunal on 31 March 2023.

7. Mr Hussain's declaration of truth included a statement that he was not instructed under any conditional fee arrangement and declared that he understood and accepted that his duty was to the Tribunal in giving 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.

8. Mr Iles confirmed he was instructed under a contingency fee and understood that his duty was first and foremost to the Tribunal. This was in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

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. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

11. The subject property was built in 2018, it is a factory and workshop, of steel portal frame construction with two floors. It was completed and occupied on 2

November 2018 when it was entered into the list. It is situated on an industrial estate in Shipley West Yorkshire.

12. The parties were in agreement regarding the size of the subject property and that an allowance of 2.5% applied for heating was reasonable. The appellant was seeking a relativity of 0.7 in respect of the ground floor which it was argued was below a supported floor and with a restricted height which limited the use.

13. Mr Iles submitted that the whole ground floor area is covered by the first floor which limits the height of the workshop and there were columns within the workshop supporting the first floor, therefore it should be considered an area under a supported floor. As such the ground floor should have a relativity of 0.7 in accordance with the national scales for industrial properties across the country. He submitted photographs to support his contention that the workshop space was limited by the columns supporting the upper floor. He provided four comparable assessments which had been granted a relativity of 0.7 for areas under a Mezzanine to support his contention.

14. Mr Hussan submitted that the relativity reflected the restriction placed on the tenant by the supports for a supported floor (Mezzanine) which typically is an addition that is not part of the structure of the building as such it would require a number of supports that would restrict the use of the workspace below. In this case the first floor was part of the structure of the building and there was little or no disruption to the workspace area. The Valuation Officer accepted that there was a height restriction which would limit the rental bid and an adjustment of 5% has been given to reflect the lower eaves height reducing the RV to £16,000.

15. In the submission the appellant has revised the RV being sought to £14,250 with effect from 2 November 2018.

Relevant Law

16. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    (1) 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.

17. 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, in accordance with the Rating Lists (Valuation Date) (England) Order 20.

18. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

19. The panel were mindful of the judgment in *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant.

20. The panel noted there was no rental evidence for the subject property as it was newly constructed five years post AVD.

21. The Valuation Officer had provided details of rents for five units in the same estate occupied by the subject property these analysed to £55.00 per m^2 for units of a similar size to the subject property and £48.50 for substantially larger properties reflecting the effect of quantum. None of the assessments had been challenged. The only rental evidence was from Unit 8B Sapper Jordan Rossi Park which was seven months post AVD and analysed to £68.46 per m^2. The panel found this supported the base rate of £55.00 per m^2.

22. The appellant provided evidence of comparable assessments with Mezzanine or supported floors to demonstrate that the relativity of 0.7 was warranted. The appellant referred the panel to the photographic evidence and gave evidence that there were two further supports at the rear of the unit.

23. Mr Hussain advised that a supported floor/mezzanine was not an integral part of the structure, often a later addition, once installed this would cause restrictions to the use below the floor as there would be restricted height, the supports for the floor would reduce movement around the ground floor, and restriction in the space due to the provision of a staircase to access the floor above were disabilities that were taken into account when considering the relative value of the space. He advised that Unit 1B and Unit 1F which were new units constructed in the same way, had no relativity applied to the ground floor and had not challenged the assessment. Unit 1E was split with each floor assessed separately. The ground floor assessment had no allowance and had not been challenged.

24. The panel accepted that there was a difference between a property which was built specifically with a first floor and one where a further floor had been added, a mezzanine or supported floor being an intermediate floor to increase space. In the panel's opinion where alterations are made to a building some disadvantages will be acceptable to enable further space to be made available.

25. The panel noted that the property was constructed with a first floor which formed part of the structure of the building.

26. The panel was aware that relativities should be applied to reflect a disability that would affect the rental bid from a hypothetical tenant coming new to the scene. It was for the appellant to satisfy the panel that the supports for the first floor in the subject property would affect the use of the space to such an extent that the rental bid would be affected. Having had regard to the photographic evidence the panel found that the supports that were present did not appear to cause any marked restriction in the use of the space. The panel also noted that the construction of the subject property was similar to others on the estate where no relativity had been granted due to there being a first floor. The panel found that the appellant had not provided persuasive evidence that the appeal property suffered from such restrictions within the ground floor space as to affect the rental bid beyond that which had already been recognised for the low eaves and lack of heating.

Disposal

27. In view of the above findings and conclusions, the Tribunal Panel was satisfied that the base rate of £55.00 per m^2 was reasonable and that the 2.5% allowance for heating and 5% for restricted height was also reasonable, and no further allowance was warranted. Therefore the appeal was dismissed.

Date issued to parties: 14 October 2024

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.