THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; challenge against compiled list entry; warehouse and premises; accuracy of rateable value; comparable assessments; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

RE: Unit 2, Provincial Park, Sheffield S35 9XT

APPEAL NUMBER: CHG100814389

BETWEEN:	Tam Hangers (UK) Reuse Ltd and	Appellant
	Ms J Moore (Valuation Officer)	Respondent

PANEL: Ms R Sharma (Presiding Senior Member)
Dr E Stuart-Cole (Senior Member)

CLERK: Miss F Willson

REMOTE HEARING ON: 18 August 2023

APPEARANCES: Mr P Rogerson for Peter Rogerson Associates (on behalf of the appellant)
Mr S Grainger (on behalf of the Valuation Officer).

Summary of decision

1. Appeal dismissed. The rateable value (RV) of Unit 2, Provincial Park, Sheffield S35 9XT (subject property) is confirmed at £337,500 with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal in respect of the subject property which arises from a challenge made by the appellant's representative on 1 June 2021. The challenge was in respect of the entry in the rating list at £337,500 RV as 'warehouse and premises' effective

from 1 April 2017. The appellant sought a revised assessment of £272,000 RV based on a base rate of £20/m^2. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was not well founded and a decision notice to this effect was issued on 10 February 2023.

3. Mr Rogerson 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), Mr Rogerson stated 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 he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported his client's case.

4. 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.

5. The subject property comprises a self-contained warehouse which forms part of a larger industrial business park and has an area of 13,387.02m^2. The property is located to the north of Sheffield city centre and is approximately 1.5 miles from the M1.

6. This hearing was held remotely via Microsoft Teams.

7. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

8. The issue in dispute was the base rate to be adopted for the subject property which the VO submitted was not unreasonable at £25/m^2. The appellant's agent submitted that a reasonable base rate was £20/m^2.

Evidence and Submissions

9. The bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton arguments, expert witness statements and photographs of the subject property.

10. The appellant's representative submitted that the appeal should be allowed, and the RV on the subject property should be reduced to £272,000 based on a base rate of £20/m^2.

11. Mr Grainger requested that the tribunal dismiss the appeal and confirm the RV of £337,500 with effect from 1 April 2017

Decision and Reasons

12. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be

taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let' and in the state set out in Schedule 6 of paragraph 2(7) to the Act, in relation to both the physical nature of the property and its mode or category of use.

13. The panel had regard to the Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141, as referred to by both parties. This case had established six propositions, which gave authoritative guidance on the weight to be attached to rental and assessment evidence, 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 VO. 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.'

14. The RV on the subject property was disputed by the appellant on the basis that unlike the appellants comparable properties there had been no quantum allowance applied to it's RV. Mr Rogerson submitted that Unit 4 and Unit 1 Provincial Park had received quantum allowances of 25% each and their base rates were therefore £35/m^2 and £26.40/m^2 respectively. Unit 4 is 4,333m^2 and Unit 1 is 7,386m^2. He referred the panel to Massey Truck Engineering Ltd which had a base rate of £25/m^2 and Incoform Bramah Ltd which had a base rate of £20/m^2. The subject property was 13,387.02m^2 which when reduced by a quantum allowance 25% as with Units 1 and 4 resulted in a reduction of the RV to £272,000 which he considered fair and reasonable.

15. He submitted that quantum was a well established principle in that the larger a premises was the lower the base rate was. He submitted that if the panel found in his favour then although the 2010 rating list could no longer be amended he requested that a transitional certificate be issued for 31 March 2017 at an RV of £250,000 to reflect the lower RV that would have been appropriate in the 2010 list.

16. The panel noted no rental evidence had been supplied on the subject property or any of the comparable properties and so the panel could not consider how the rent had been analysed.

17. Mr Grainger on behalf of the VO submitted that any quantum allowance for a warehouse would be reflected in the rent and therefore it would not be reasonable to give a further discount for quantum. Mr Grainger referred the panel to the six comparable properties put into evidence by the LO which were all warehouses in the vicinity of the subject property which had a base rate of between £32/m^2 and £42/m^2. The base rate had been established using rental evidence effective from 10 April 2015 to May 2016 and was therefore close to the AVD. This he submitted supported the base rate for the subject property at £25/m^2.

18. He further drew the panel's attention to the lack of any rental evidence presented by Mr Rogerson which meant that he had not demonstrated whether or not a quantum allowance had been applied. Mr Grainger stated that no such allowance had been applied to the RV of any of the comparable properties.

19. The panel was aware that the persuasive or legal burden of proof was on the appellant to prove his case on the balance of probabilities and the panel found that he had not discharged that burden. The panel found that it had been provided with evidence from the LO which suggested that the base rate applied to the subject property of £25/m^2 was reasonable.

20. The panel therefore dismiss the appeal and confirmed the RV at £337,500 with effect from 1 April 2017.

Date: 4 September 2023

Appeal number: CHG100814389

Right of 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.