THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; factory and premises; price per m^2 in dispute; rental evidence and comparable assessments; appeal allowed in part.

RE: Rollalong, 309 Old Barn Farm Road, Wimborne, Dorset BH21 6SP

APPEAL NUMBER:	CHG100816619	
BETWEEN:	Newship Limited	Appellant
	and	
	Ms A Morley, Valuation Officer	Respondent
PANEL:	Mr S P Wood (Presiding Senior Member) Mrs H Newman-Newing (Senior Member)	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Monday 18 September 2023	
APPEARANCES:	Mr T Kinsey from Gerald Eve LLP, representing the appellant Ms E Sanderson representing the Valuation Officer	

Summary of decision

1 Appeal allowed in part. The panel determined an alteration of the unadjusted price from £30 to £26 per m^2, which resulted in a revised rateable value (RV) of £377,500 with effect from 14 May 2020.

Introduction

2 This is a 2017 rating list appeal. Rollalong, 309 Old Barn Farm Road, Wimborne, Dorset BH21 6SP (the ‘appeal property’) had been entered in the 2017 rating list as ‘factory and premises’ at a RV of £425,000 with effect from 14 May 2020.

3 The challenge proposal was submitted by Gerald Eve LLP on behalf of Newship Limited and was received by the Valuation Officer on 10 June 2022.

It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £295,000 was proposed with effect from 14 May 2020.

4 The Valuation Officer issued a challenge case decision notice on 20 January 2023 which disagreed with the proposed alteration of the list but stated that the rating list entry was unreasonable based on the evidence and information available. The survey details had been amended at check stage to remove a mezzanine floor, however, the area under the supported floor had not been amended. An increase of the RV from £425,000 to £430,000 was notified to correct the error.

5 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 14 April 2023.

6 Mr Kinsey 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) his statement of truth included a statement that he was not instructed under any 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.

7 The appeal property was a large factory site comprised of mixed age buildings, located on the Woolbridge Industrial Estate in Three Legged Cross. The present valuation of £430,000 RV was based upon a total area of 13,777m^2 and an unadjusted price of £30 per m^2.

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

Preliminary issues

9 On behalf of the appellant, Mr Kinsey explained that the Valuation Officer had provided a revised valuation last week, following a recent joint inspection. As it had not been possible to fully confirm the breakdown of the new areas and the increase in plant and machinery, and in light of any change to the rental analysis of the subject rent, he requested an adjournment of the hearing.

10 Representing the Valuation Officer, Mrs Sanderson objected to the adjournment of the appeal. She stated that factual matters could be resolved independently, and she had not relied solely on the subject rent.

11 The panel retired briefly to consider the adjournment request. In accordance with PS4 Postponements and adjournments, it is always in the interests of justice to proceed with a properly listed hearing unless it would be unjust to do

so. A delay in determining listed appeals is a costly and time-consuming matter which must be avoided wherever possible.

12 In arriving at the decision to refuse the adjournment, the panel took into account that there had been a significant amount of time for the parties to confirm the accuracy of the assessment; the check stage had been completed on 17 May 2022. The panel was satisfied that the key issue of the price per m^2 could be heard and determined with no prejudice to the appellant.

Issue

13 The unadjusted 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: initial response to the challenge, Valuation Officer's challenge case decision notice, and appellant's challenge submission.

15 A supporting statement lodged by the appellant's representative with the appeal documents had been excluded, as no response had been received to the Valuation Officer's notice of objection.

16 On behalf of the appellant, Mr Kinsey argued that the current main unit rate of £30 per m^2 was excessive and not in line with values applied to similar assessments in the locality. The basic rate had increased 50% from £20 per m^2 in the 2010 list to £30 per m^2 in the 2017 list. This was in contrast with other assessments which had seen more modest or nil changes. He disputed the relevance of the Valuation Officer's rental comparable evidence as those properties were either superior in build, and/or location.

17 In consideration of comparable assessments, Mr Kinsey contended that the appeal property should be valued at £20 per m^2, and he therefore requested a revised RV of £295,000 with effect from 14 May 2020.

18 On behalf of the Valuation Officer, Ms Sanderson defended the unadjusted price of £30 per m^2 with reference to the subject rent and basket of rental evidence. Comparison between lists was considered inappropriate as each rating list stands alone based upon the evidence at different relevant dates. The relevance of Mr Kinsey's comparable properties was disputed, as they were either smaller, in a different scheme, or in a different category of use.

19 Ms Sanderson contended that Mr Kinsey had failed to show that the existing RV of £430,000 was unreasonable and she therefore asked the panel to dismiss the appeal.

Decision and reasons

20 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:

> 2(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.

21 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 2014 (SI 2014 No. 2841).

22 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 14 May 2020.

23 Both parties had referred to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 in support of their respective cases. This was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence.

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 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 differing types of evidence depending on the one hand 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 In accordance with *Lotus and Delta*, the panel first turned to the subject rent. In the appellant's submission, it had been stated that the appeal property was owner occupied. However, information held by the Valuation Officer obtained from a form of return, indicated that the property was occupied by the parent company. A rent of £450,000 had been declared with effect from 1 January 2014.

25 It was a fact agreed by both parties that the subject rent had been agreed between connected parties. It was also contended by the appellant that the rent included an area which had been sublet. For those reasons, the panel could not attach significant weight to it, and turned to the other rental evidence available for consideration.

26 Ms Sanderson contended that at £30 per m^2, the appeal property sat well within the basket of evidence.

1 Viscount Road, Aviation Business Park, Bournemouth International Airport, Christchurch, Dorset BH23 6BU

A workshop and premises with a total area of 18,216.3m^2. A rent of £960,000 effective from 1 January 2016 analysed at £53.61 per m^2. The property had been assessed at £50 per m^2.

Mr Kinsey disputed the relevance of 1 Viscount Road, which he described as a modern industrial building with higher eaves in a superior location. He further highlighted that there had been a nil increase in the £50 per m^2 adopted for the 2010 list. This was in contrast to the appeal property which had seen a 50% increase in the price per m^2 between lists.

Curtiss-Wright Building, 15 Enterprise Way, Aviation Park West, Bournemouth International Airport, Christchurch, Dorset BH23 6HH

A workshop and premises with a total area of 16,457.74m^2. A rent of £1,216,000 effective from 1 December 2016 analysed at £68.21 per m^2. The property had been assessed at £50 per m^2.

Mr Kinsey contended that this was a superior property in terms of the building and its location. It had also remained at the same price per m^2 adopted for the 2010 list.

Building 106, 107, 267, 350, 351 and 427, Bournemouth International Airport, Christchurch, Dorset BH23 6EA (subsequently referred to as Building 106)

A workshop and premises with a total area of 21,660.24m^2. A rent of £236,600 effective from 1 December 2015 analysed at £11.66 per m^2. The property had been assessed at £30 per m^2, but had been reduced on agreement to £21.50 per m^2.

This was one of Mr Kinsey's comparable assessments, which he described as a collection of separate warehouse units. He believed that they were of better quality, with higher eaves. He commented that the analysed rent of £11.66 per m^2 appeared low and therefore less weight should be attached to it, but highlighted that there had been an agreement to reduce the price per m^2 from £30 to £21.50.

16-18, 32-34, 37, 38, 50 & 51, Uddens Trading Estate, Wimborne, Dorset BH21 7NL

A workshop and premises with a total area of 6,566.98m^2. A rent of £272,300 effective from 29 August 2014 analysed at £46.38 per m^2. The property had been assessed at £40 per m^2.

Mr Kinsey considered that this was in a superior location on Ferndown Industrial Estate, and located closer to the main road and bus routes which resulted in better access to labour.

27 The panel turned to the further comparable assessment evidence provided by Mr Kinsey in support of his proposed price of £20 per m^2.

Travis Perkins Trading Co, 35 Cobham Road, Wimborne, Dorset BH21 7NR

A larger property of 15,117.72m^2 on a large sprawling site, similar to that of the subject property. It was assessed at £25 per m^2 which was a 6% increase from the 2010 list. Although valued as a Builders Merchants and premises, Mr Kinsey contended that the value would be in line with, or higher than other industrial properties. Considering its superior location on Ferndown Industrial Estate, it had been assessed at a lower price per m^2 than the appeal property.

Ms Sanderson disputed the relevance of Travis Perkins which was valued on a Builders Merchant scheme.

Unit 90, Old Barn Farm Road, Three Legged Cross, Wimborne, Dorset BH21 6SP

Located on the subject estate, this was a 1980's build of 4,574m^2. It had been assessed at £55 per m^2, an 8% decrease from the 2010 list price of £60 per m^2.

This was dismissed by Ms Sanderson as it was in a different industrial scheme applicable to properties below 5,000m^2.

In response, Mr Kinsey explained that this property was not cited as a direct comparable, but rather to highlight that the appeal property had seen an increase of 50% between lists.

74-78 and 79 Condor Close, Three Legged Cross, Wimborne, Dorset BH21 6SU

Described as the next two largest assessments at Three Legged Cross, both had experienced falls in the main rate from £60 to £55 per m^2 between lists.

The relevance of those assessments was disputed by Ms Sanderson as they were valued in a different industrial scheme applicable to properties below 5,000m^2.

28 With regards to the appellant's comparable assessments, the panel decided that little weight could be attached to Unit 90 Old Barn Farm Road, 74-78 Condor Close and 79 Condor Close, as they were under 5,000m^2 and subject to a different valuation scheme. While Travis Perkins appeared similar in size and character, it was valued according to a different class of use and therefore the panel held that it was not relevant for comparison with the appeal property.

29 The panel referred to the properties valued in the same scheme as the appeal property, and noted that there were no direct comparable properties in terms of size, location and/or quality. The prices adopted ranged from £21.50 to £50 per m^2. As highlighted by Mr Kinsey, Curtiss Wright Building and 1 Viscount Road had been assessed at £50 per m^2, a nil increase from the 2010 list. No comparison could be made with Building 106 as it did not exist in the 2010 list. While the panel acknowledged that each list is based upon values pertaining to different dates, for properties valued within the same scheme, it appeared to be inconsistent that the value applied to the appeal property had increased by 50%, when others had remained the same. This appeared to be as a result of the Valuation Officer's analysis of the subject rent at £30 per m^2, however, the panel had rejected the subject rent as it had been agreed between connected parties.

30 The panel concluded that an unadjusted price of £30 per m^2 was unreasonable, however, was not persuaded by Mr Kinsey's adopted price of £20 per m^2. This figure relied too heavily upon there being no change from the

2010 list value, which, in the absence of relevant rental evidence had not been proven either way.

31 Taking into account the values adopted for Building 106 (21,660m^2) at £21.50 per m^2 and Uddens Trading Estate (6,566m^2) at £40 per m^2, the panel considered that the appeal property (at circa 13,777m^2) would fall somewhere in between. The panel determined that a revised price of £26 per m^2 was reasonable and reflected the inferior location of the appeal property.

32 The summary valuation below adopts the areas and relativities as set out in the Valuation Officer's Challenge Decision Notice and is included for illustration purposes, pending the parties agreement on factual matters.

Floor	Description	Area m^2	£ per m^2	Value (£)
Ground	Workshop	1,510.40	24.70	37,307
Ground	Store	887.70	24.70	21,926
Ground	Workshop	4,467.40	24.70	110,345
Ground	Store	75.00	22.88	1,716
Ground	Portacabin	15.10	18.46	279
Ground	Store	582.80	24.70	14,395
Ground	Store	442.50	24.70	10,390
Ground	Workshop	504.50	24.70	12,461
Ground	Workshop	1,821.60	24.70	44,994
Ground	Store	484.70	24.70	11,972
Ground	Store	559.60	24.70	13,822
Ground	Modular Offices	225.00	18.46	4,154
Ground	Modular Office	27.00	18.46	498
First	Modular Office	27.00	12.35	333
Ground	Office	288.00	29.64	8,536
First	Office	288.00	29.64	8,536
Ground	Workshop	1,000.00	24.70	24,700
Ground	Canteen	74.50	18.46	1,375
Ground	Canteen	77.20	18.46	1,425
Ground	Warehouse infill	419.20	24.70	10,354
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
	Hard Surfaced, Fenced Land	1,656.95	5.00	8,285
	Conc. Storage Land	10,272.00	2.75	28,248
	Plant and Machinery			1,051
			Valuation sub-total	377,642

Rounded down to £377,500 RV with effect from 14 May 2020

33 The panel determined a revised RV of £377,500 with effect from 14 May 2020, and therefore the appeal was allowed in part.

Order

34 Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to alter the entry in the rating list to rateable value £377,500 with effect from 14 May 2020.

35 Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

36 A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 16 October 2023

Appeal number: CHG100816619

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.