THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2017 Rating List; Warehouse and Premises; Accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

RE: 16 Lumina Way, Enfield EN1 1FS

APPEAL NUMBER: CHG100828108

BETWEEN:	Fayers Plumbing & Building Supplies Ltd (Represented by Altus Group)	Appellant
and	Dawn Bunyan (Valuation Officer)	Respondent
PANEL:	Mr D Hogg (Senior Member) Mr S Hooberman (Member)	
CLERK:	Mr J Massey	
REMOTE HEARING:	Friday 12 January 2024	
APPEARANCES:	Mr M Evans from Altus Group (Appellant's representative) Mr Y Napal (Valuation Officer's representative)	

Summary of Decision

1. The appeal was dismissed. The panel determined a tone of value of £105 per m² for the subject hereditament was reasonable and confirmed the RV at £133,000 with effect from 5 December 2017.

Introduction

2. The appellant's representative had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal (challenge) served on the Valuation Officer on 14 July 2022. After considering the proposal and evidence submitted during the challenge period, the Valuation Officer (VO) decided that the proposal was not well founded but decided to reduce the existing assessment from £139,000 to £133,000 RV. A decision notice to that effect was served on the appellant on 13 June 2023 and the appellant's representatives then appealed the VO's decision to the tribunal on 5 July 2023, on the grounds that the current valuation for the hereditament was not reasonable, under

Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The subject premises is an industrial unit situated in Lumina Way, and part of a block of 4 properties known as 16-22 Lumina Way, built in 2013 and located between Lincoln Road and Progress Way in Enfield and with access to the A10 Great Cambridge Road. It is a steel framed property, with insulated profiled metal clad walls and roof and a concrete floor, with eaves height of 8.6m and full central heating. The property benefits from natural light and electric lighting and has parking to the front. It has an agreed total area of 1608.45 m^2 (1061.58m^2 in terms of main space) and comprises a ground floor warehouse with office and kitchen accommodation, additionally there is a mezzanine storage space.

4. The appellant had occupied the appeal property since December 2017, and the rent payable was £153,916 per annum (pa) from 1 December 2017 on a new 15-year lease with a seven month rent-free period.

5. Both parties appeared before the panel in a dual capacity as both Advocate and Expert Witness. Mr Evans stated that he was on a success related fee but accepted that his first duty was to the Tribunal and that he would comply with this duty together with the requirements of his professional body, regardless of whether or not the evidence supported the appellant's case.

6. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), 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 in England).

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

8. The statement of truth provided by Mr Napal confirmed that he was not instructed under any conditional or other success-based fee arrangement.

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

Issue

10. The issue in dispute before the panel was the correct tone of value rate to be applied to the appeal property. The appellant sought a reduced entry of £121,000 RV based on a rate of £95 per m². On behalf of the respondent, Mr Napal defended the Valuation Officer's existing assessment of £133,000 based on a rate of £105 per m².

Evidence and submissions

11. The evidence 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 location maps and photographs of the subject premises and other warehouses in its locality.

Decision and reasons

12. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141.

13. The starting point for consideration was the actual rent passing on the appeal property. Mr Evans considered that the rent agreed on 1 December 2017 was over two and a half years after the AVD and therefore held little weight.

14. The respondent had adjusted the December 2017 rent on the subject premises to account for a 7 - month rent free period and devalued it to £128.30 per m^2. He argued that rents had risen by approximately 20% between the AVD and 2017. He adjusted for this increase by toning the December 2017 rent back by 20% to £106.90 per m^2, which he considered supported the rate of £105 per m^2 applied to the subject premises. He stated that a similar method had been used in agreeing an appeal on 20-22 Lumina Way, where the rent agreed in October 2016 had been toned back by 10% per year to achieve an AVD value of £98 per m^2, and a price of £95 per m^2 had been accepted by the appellant in that case.

15. Mr Evans did not consider that the AVD value for the subject premises could be reliably ascertained using this approach as he did not consider the increase of 20% estimated by the respondent to be accurate, particularly as the CoStar graph showing market rents in Enfield only showed trends up to mid-2017. He also disagreed that the appeal on 20-22 Lumina Way had been settled in this manner, stating it was a result of the settled tone for modern industrial units of £90-£100 per m^2, depending on their size. He did not consider that quantum was a factor regarding 20-22 Lumina Way and the subject premises and argued that the agreed rate of £95 per m^2 for 20-22 Lumina Way should be applied to the subject premises.

16. Mr Evans also referred to agreed reductions which had taken place in respect of the subject premises and other properties on the same valuation scheme. The rate applied to the subject premises had been reduced from £130 to £105 per m^2, whilst that of 20-22 Lumina Way had been reduced from £130 to £95 per m^2 and 28-30 Lumina Way had been reduced from £140 to £115 per m^2. He considered that the reduction applied to the subject premises was inconsistent bearing in mind the original rates applied, and it should have been placed in the same size band as 20-22 Lumina Way.

17. The panel was satisfied that rents in the locality increased after the AVD, although it would be impossible to establish exactly how much the subject rent would have increased between 1 April 2015 and 1 December 2017. However, it noted that at 1803.71m^2, 20-22 Lumina Way was considerably larger than the subject premises, and its analysed rent from 1 October 2016 was £113.62 per m^2, some £15 per m^2 less than that agreed on the subject premises around a year later. The panel was satisfied that this indicated that a larger property in the same location and of a similar age and quality would, at the AVD, have let for less than the subject premises as a result of quantum. It did not therefore consider that the assessment of 20-22 Lumina Way at £95 per m^2 supported a reduction for the subject premises.

18. The panel did consider that less weight should be placed on the subject rent agreed on 1 December 2017 due to its distance from the AVD. However, it did find some merit in the respondent's approach to adjusting that rent to the AVD, given the lack of other rents in the vicinity close to the AVD. Given the analysis of the subject rent, and of the rent agreed on the

larger 20-22 Lumina Way, closer to the AVD, the panel did not consider the rate of £105 per m^2 for the subject premises to be excessive.

19. Mr Evans had also referred to the assessments of a number of industrial units in Enfield which he considered were comparable and supported a lower rate of £95 per m^2 for the subject premises.

- Units 1 & 2 at 13 Crown Road Enfield EN1 1TH were both reduced on agreement to £90 per m^2. The panel noted that these two larger industrial units (2013.96m^2 and 2415.31m^2) were not in the same valuation scheme as the subject premises, having been built in 2007. The panel considered that they were older and larger than the subject premises, and therefore not comparable.

- Unit 1 at 14, Advent Business Park, Advent Way, London N18 3AL was reduced on agreement to £100 per m^2. Unit 7 At 14, Advent Business Park and Units 4-5 At 14, Advent Business Park, were both assessed at £95 per m^2. The panel noted that these properties were of a similar age to the subject premises being built in 2014 and were either smaller or of a similar size. However, they were located over four miles from the subject premises, in what is considered to be a less prominent location close to the A406 North Circular Road, whereas the subject premises was adjacent to the A10 Great Cambridge Road which gives quick access to the M25 Motorway.

- 17-19 Great Cambridge Ind Estate, Lincoln Road, Enfield EN1 1SH was much larger than the subject premises at 3311.11m^2 and assessed at £90 per m^2. 30-31 Great Cambridge Ind Estate, Lincoln Road, Enfield EN1 1SH was similar in size to the subject premises and assessed at £95 per m^2. They were both built in 2006 and therefore older than the subject premises and had lower eaves height. The panel considered that the fact that the subject premises was more modern would attract a higher rate.

20. Having had regard to the whole basket of evidence, the panel placed most weight on the rent on the subject premises and of 20-22 Lumina Way, which it considered provided the best indication of the rental value of the subject premises at the AVD. It considered that a tone of value of £105 per m^2 was fair and reasonable for the subject premises and reflected the difference in the location and attributes of the subject premises and the comparable properties.

21. The appeal was therefore dismissed.

Date: 1 February 2024

Appeal number: CHG100828108

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.