THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; challenge against compiled list entry; workshop and premises; accuracy of rateable value; inclusion of land in assessment; comparable assessments; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Ladies Hosiery and Underwear Ltd v Middlesex Assessment Committee [1932] 2 KB 67; appeal dismissed.

RE: Dreamline Travel Ltd, Stancliffe Street, Blackburn BB2 2QR

APPEAL NUMBER: CHG100845537

BETWEEN:	Dreamline Travel Ltd	Appellant
	and	
	Ms A Morley (Valuation Officer)	Respondent

PANEL: Mr CJ Williams (Presiding Senior Member)
Mr P Blythe-Bartram (Senior Member)

CLERK: Miss F Willson

REMOTE HEARING ON: 5 September 2023

APPEARANCES: Mr L Worthington from RVA Surveyors (on behalf of the appellant)
Mr A Martland (on behalf of the Valuation Officer).

Summary of decision

1. Appeal dismissed. The rateable value (RV) of Dreamline Travel Ltd, Stancliffe Street, Blackburn BB2 2QR (subject property) is confirmed at £13,500 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 23 August 2022. The challenge was in respect of the entry in the rating list at £13,500 RV as 'workshop and premises' effective from 1 April 2017. The appellant sought a revised assessment of £11,750 RV after the

removal of the land from the assessment. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was not well founded and a decision notice to that effect was issued on 24 January 2023.

3. Mr Worthington 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 Worthington 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 his 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 warehouse and premises with ancillary land. There is also a static caravan which is being used for domestic purposes and the subject property has a total area of 401.07m^2.

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

Preliminary Issue

7. Mr Worthington explained that he felt it necessary to add some extra comparable properties to the case once he had received the final challenge decision notice as a rebuttal. He explained that he had served the document on Mr Martland on 24 April 2023 and so there had been time for Mr Martland to review the new information prior to the hearing.

8. Mr Martland objected to the inclusion of an extra document containing further comparable properties as it was served after the challenge decision notice had been issued.

9. The panel adjourned briefly to consider the submissions and determined that the extra document could be included in the evidence as it was in the interests of justice to do so. Mr Martland had received the document in April and so had sufficient time to prepare any rebuttal he might want to make. The panel then had a tenminute adjournment in order to read the document before taking submissions.

Issue

10. The issue in dispute is the inclusion of land within the subject property's assessment, which the appellant's agent submits should be included in the domestic assessment of the static caravan.

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 photographs of the subject property and other workshops in its immediate locality.

12. The appellant’s representative submitted that the appeal should be allowed, and the RV on the subject property should be reduced to £11,750.

13. Mr Martland requested that the tribunal dismiss the appeal and confirm the RV of £13,500 with effect from 1 April 2017.

Decision and Reasons

14. 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.

15. 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.’

16. The RV on the subject property was disputed by the appellant on the basis that the land contained within the assessment was in fact domestic land which should be included in the

domestic assessment of the static caravan. Mr Worthington explained that the owner of the static caravan had lived on the site for many years and was the freehold owner of the whole site. He had used the land as part of the domestic property. If the land remained in the appeal property's assessment and the workshop was ever rented out separately, the tenant would need to leave part of the land empty as it was the only point of egress for the owner to be able to access the static caravan.

17. Mr Worthington referred the panel to the comparable properties included in the evidence. They all had land attached but the RV on the assessments did not include that land and he submitted that on that basis neither should the subject property include the land.

18. The panel was aware that the assessments should include everything contained in the hereditament which would include any land. The panel was aware of the case of *Ladies Hosiery and Underwear Ltd v Middlesex Assessment Committee [1932] 2 KB 679* where it was held that correctness should not be sacrificed for uniformity. The fact that the land had been omitted from the other assessments in error it did not mean that the subject property should have the land removed from its assessment and so it put little weight on this evidence.

19. Mr Martland explained that the land being used by the domestic dwelling had now been removed from the subject property's assessment. The land that still remained in the assessment was being used for business purposes and was therefore correctly included in the subject property's assessment. He further submitted that if the workshop was ever rented out separately, access to the static caravan would only require use of a narrow strip of land within the subject's property's assessment.

20. He further confirmed that the comparable properties which did not include the land attached to that assessment would all be reviewed as the land should be contained in the RV.

21. The persuasive or legal burden of proof was on the appellant to prove his case and the panel found that he had not discharged that burden. The panel therefore found that it had been provided with evidence to suggest that the RV of £13,500 was reasonable and dismissed the appeal.

Date: 25 September 2023

Appeal number: CHG100845537

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.