VALUATION TRIBUNAL FOR ENGLAND

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

APPEAL NUMBER:	CHG100860976
RE:	Unit 9, Pineapple Park, Road One, Industrial Estate Winsford CW7 3PR (the "subject property")

BETWEEN:	Ian Thomson T/A Motor Barn	Appellant
	and	
	Amanda Hitchings BA (Hons) MRICS (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 O Scorer of Altus representing the Appellant. Mr B Slater representing the Respondent.

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel found that the Rateable Value (RV) of £18,500 was unreasonable and that the rateable value should be reduced to £16,250 from 1 April 2017.

Introduction

3. This was a 2017 rating list appeal. The challenge proposal was submitted by Altus on behalf of Ian Thomson T/A Motor Barn and was received by the Valuation Officer on 27 September 2022. It had been made on the grounds that the RV shown in the rating list was not reasonable. A revised RV of £13,500 was proposed with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 15 May 2023 which stated that based upon the evidence and information available, the RV of £18,500 from 1 April 2017 was reasonable.

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

6. Mr Slater 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.

7. Mr Scorer confirmed he was instructed under a conditional 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).

8. 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.

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

Background

10. The subject property was a mid-terrace unit within a block of nine other units of a steel portal frame construction with part brick and block walls it is 440.8m^2 valued at an unadjusted rate of £42.00 per m^2 situated on an industrial estate. The Appellant advised it was reconstituted in 1995 on an old mill site and the frame may date back to 1967.

11. Mr Scorer confirmed the subject property was held on a three year lease renewed on 15 January 2022 at a rent of £20,000 per annum. Having considered similar units in the terrace which had new open market lettings

close to the AVD he considered the base price excessive. There were also agreements on two other units within the terrace where the base price was reduced from £41.00 to £31.00 which he considered further supported a reduction in the base price for the subject property.

12. Mr Slater who was acting as advocate only argued that the evidence provided by the Valuation Officer in the decision notice supported the base price of £42.00 per m^2.

Relevant Law

13. The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (the "1988 Act") (as amended):

"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; The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

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.

14. 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).

Discussion

15. The panel was guided by the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The six propositions in this judgment were:

"(i) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(ii) 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 s19(6) of the General Rate Act 1967, the more weight should be attached to it.

(iii) Where rents of similar properties are available, they too are 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.

(iv) Assessments of other comparable properties are also relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values as estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can be properly referred to as giving some indication of that opinion.

(v) In the light of all the evidence an opinion can then be formed of the value of the subject hereditament, the weight to be attributed to the different 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.

(vi) 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 clearly be more difficult to reject the evidence of the actual rent."

16. The panel found that the rental evidence on the subject property was unreliable and could be given no weight as it was a lease renewal seven years after the AVD and would not reflect values at AVD.

17. The panel noted that the Valuation Officer had relied on the lease renewal on Unit 3 to support the base rate of £42.00 per m^2. The appellant's representative submitted the rents on Units 7 and 8 in the same terrace as the appeal property and also cited Units 5 and 6 which were originally in the list at £41.00 per m^2 but were reduced subsequently reduced to £31.00 per m^2 after a settlement.

18. The panel had regard to the rental evidence submitted and found that most weight could be given to the rent on unit 7 which was subject to a new lease eighteen months before the AVD, it measured 437.2m^2, the rent analysed to £33.17 per m^2, it was very similar in size to the subject property, this in the panel's opinion supported a lower base rate for the appeal property.

19. There was a new lease on Unit 8 dated 1 June 2015, three months after the AVD. The rent analysed to £30.98 per m^2 and it measured 882.9m^2. However, the panel considered that it would have been subject to a reduced rent due to quantum and therefore carried less weight although the panel considered it still gave some support to a lower base rate for the subject property.

20. The panel also gave some weight to the rental evidence on Unit 3, although there was some doubt whether it was an assignment of an original lease from 2012 or a renewal in August 2016. However, it demonstrated to the panel that there was an increase in the rental market by August 2016, fourteen months after the AVD.

21. Both the settlement properties, Units 5 and 6 were considerably larger, older and in a different scheme than the subject property and therefore the panel considered the settlement on these would reflect these differences and gave these settlements no weight.

22. The panel concluded that the RV on the subject property was unreasonable having taken into account the rental analysis on Unit 3, Unit 7, and Unit 8. The panel considered that a base rate of £37.00 per m^2 was reasonable having taken into account the rental analysis on unit 7 which was the closest comparable to the subject property and adjusting for the market increase indicated by the rental on unit 3. The following assessment was therefore determined:

Line	Floor	Description	Area (m^2)	£ per m^2	Value
1	Ground	Warehouse	440.80	£37.00	£16,310
		Total			£16,310

Rounded to £16,250.

Disposal

23. In view of the above findings and conclusions, the Tribunal Panel was satisfied that the appeal should be allowed in part and the RV of the subject property is reduced to £16,250 from 1 April 2017.

Order

24. 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 £16,250 from 1 April 2017.

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

26. A refund of the paid fees will now be arranged provided there are no reviews of the Tribunal's decision.

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.