THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; *Workshop and premises; main space price; appeal dismissed.*

RE: Bowson Engineering, Dewsbury Road, Stoke-on-Trent ST4 2TE

APPEAL NUMBER: CHG100870055

BETWEEN:	Bowson Engineering Ltd	Appellant
	and	
	Ms A Morley (Valuation Officer)	Respondent

PANEL: Ms A Ursprung (Presiding Senior Member)
Mr W Read (Senior Member)

CLERK: Mr R Gath IRRV Hons

REMOTE HEARING 2 on 24 November 2023

APPEARANCES: Mr T Hogg from Altus Group (Appellant's representative);
Mr R Oakley (Valuation Officer's representative)

Summary of decision

1. Appeal dismissed. The panel concluded that the main space price of £41.37/m^2 and the resultant rateable value of £27,000.00 was correct.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 21 October 2022. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 11 April 2023 and his representatives then appealed the VO's decision to the Tribunal on 26 May 2023 on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A of

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

3. The appeal property was a workshop and premises, built in the 1970s, with an agreed area of 652.61m². It also had an area of unsurfaced, fenced land of 329.40m². It was held freehold.

4. Mr Hogg appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Hogg's declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.

5. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).

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

Issue

7. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Hogg had sought a reduced entry of £19,750 RV based on an unadjusted value of £30/m². Mr Oakley defended the VO's existing assessment of £27,000 RV based on an unadjusted value of £41.37/m².

Evidence and submissions

8. The bundle before the panel comprised all of the evidence disclosed and exchanged during the challenge period, which included rental evidence, photographs of the appeal property and the parties comparable properties and their skeleton arguments.

Decision and reasons

9. 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. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

10. The starting point for consideration was the actual rent passing on the appeal property. However, as it was held freehold, there was no rent for the appeal property.

11. Mr Hogg referred to other comparable assessments, Units F2, E, C1, A1, A2 and B2 City Park Trading Estate which were 2 miles from the appeal property and were located within the same industrial estate. They varied in size from 183.53m^2 to 1,498.80m^2 and the rents had been analysed to between £7/m^2 to £24/m^2. He argued that as these units had been refurbished, this suggested that the value of the appeal property was excessive, as it had not been improved. He provided internal photographs to show that the interior was a poorer quality than the units in City Park Trading Estate.

12. However, the VO contended that the rents for City Park Trading Estate were lower than the rents for Fenton Industrial Park as the units in City Park Trading Estate had shared parking which could cause issues with deliveries, whereas the appeal property was located within its own security gates, on its own land and they could use the additional land for storage or goods or private car parking.

13. To support his argument that the RV was not excessive, the VO referred to the rents for three units in Fenton Industrial Park: Units 1 and 2 Govan Road and Unit 1 Elswick Road. Unit 2 was subject to a lease renewal on 1 July 2014 which analysed to £53.15/m^2. Unit 1 was subject to a new lease effective from 1 January 2016 which analysed to £44.02/m^2. The VO also referred to Unit 1, Elswick Road which was also subject to a lease renewal effective from 1 January 2015 and analysed to £46.72/m^2. He considered that these properties were more comparable to the appeal property as they were also located on their own land with security fencing. Based on these rents, the VO therefore considered that a value of £41.37/m^2 was reasonable.

14. Mr Hogg argued that the rent for Unit 2 Govan Road was not reliable as the rent was for two units. However, the VO confirmed that the lease renewal was purely for Unit 2 and the rent was then subsequently adjusted to reflect the addition of the new unit.

15. Given the above, the panel applied less weight to the rental evidence of the units in City Park Trading Estate. Although it was clear that they were better quality, they were located on land with shared parking. The appeal property was located within its own land with security fencing. The panel concluded that a new tenant coming fresh to the scene would be willing to pay more for a property with private, secure land. This was supported by the rents for these properties which was greater than the rents for City Park Trading Estate. In coming to its decision, the panel applied significant weight to the rent for Unit 1 Govan Road as it was a new letting from 1 January 2016 which was close to the AVD.

16. Whilst the panel accepted that Units 1 and 2 Govan Road were slightly newer than the appeal property, the panel noted that the rents for these two properties were greater than the unadjusted value for the appeal property.

17. Given the above, the panel was more persuaded by the rents for Units 1 and 2 Govan Road and Unit 1 Elswick Road as these were more comparable to the appeal property. These supported the unadjusted rate of £41.37/m^2 and the resultant rateable value of £27,000, which the panel did not consider to be excessive. The panel therefore dismissed the appeal.

Date: 22 December 2023

Appeal number: CHG100870055

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.