

THE VALUATION TRIBUNAL FOR ENGLAND



2017 Rating List – rental evidence – location of appeal hereditament and comparable hereditaments – disadvantages of appeal hereditament – Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council [1976] RA 141 - appeal allowed

Re: 41-42 St Johns Road, Cattedown, Plymouth, PL4 0PB

APPEAL NUMBER: CHG100879655

BETWEEN:	G Mitchell Ltd	Appellant
	and	
	Ms A Morley	Respondent
	(Valuation Officer)	

PANEL: Ms S Penni (Presiding Senior Member)
Mr K Everett (Senior Member)

CLERK: Mr A Jolly

REMOTE HEARING: Tuesday 8 August 2023

APPEARANCES: Mr M Brownstone of Marston Associates representing the appellant
Mr A Durrant representing the respondent

Summary of decision

1. Appeal allowed. Rateable Value (RV) £13,000 confirmed with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: An appeal was lodged by Marston Associates on behalf of the occupier on 22 February 2023 against the Valuation Officer's Challenge Decision Notice of 30 January 2023.
3. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.
4. Mr Brownstone 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 Brownstone's declaration of truth included a statement that he was not instructed under any conditional fee arrangement. Mr Brownstone 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 the client's case.

5. The valuation officer's representative appeared as both expert witness and advocate.

Issues

6. The issue before the panel concerned the price per m² to be adopted for the appeal hereditament having regards to the rent passing on the appeal hereditament and the comparable hereditaments cited by both the appellant's representative and the Valuation Officer.
7. The material date is 1 April 2017 and antecedent valuation date (AVD) is 1 April 2015.
8. The appellant's representative had originally sought a reduction to RV £8,500 but during the hearing confirmed that he was now seeking a reduction to £13,000. The Valuation Officer's representative was defending the current RV £15,000.

Evidence and submissions

9. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, assessment summaries and the appellant's challenge submission.
10. Prior to the hearing the appellant's representative submitted new evidence which the respondent raised an objection to. At the beginning of the hearing the appellant's representative confirmed that he was now not seeking to introduce new this evidence.

Decision and reasons

11. Mr Brownstone informed the panel that the appeal property was located approximately 1 km from the town centre in a residential area. The appeal property was triangular in shape with poor access, no parking and not service yard with loading direct from the street.
12. Mr Brownstone stated that the rent in February 2016 and February 2021 was £13,000. Whilst he had originally sought RV £8,500 he was now seeking £13,000 with effect from 1 April 2017 based on the rent passing. He accepted that the rent occurred after the AVD but it was within 10 months of the date. He considered that the rent was the starting point as per the Land Tribunal decision of *Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141. He stated that the rent analysed to £51.88 per m² which was within the £35 per m² to £100 per m² range of the scheme in which the appeal property was in.
13. He considered the comparable properties cited by the respondent were located within industrial estates with sufficient parking and yards and therefore not truly comparable to the appeal property.
14. In support of his contention Mr Brownstone referred to a number of hereditaments close to the appeal property which had been valued between £37.50 per m² to £52.50 per m². He therefore sought a price per m² of £52.50.

15. Mr Durrant stated that whilst the rent was the starting point the decision went on to provide a number of other propositions to be considered and that in the actual case of *Lotus and Delta v Culverwell (Valuation Officer) and Leicester City Council* the rent was not the deciding factor.
16. Mr Durrant stated that the adjusted price of £66.50 per m² had included a 5% allowance each for headroom and access and the RV of £15,000 include a 5% end allowance for shape. He also stated that the appeal property had good transport links and was also close to a large turning circle to assist larger vehicles.
17. He did not consider Mr Brownstone's comparable properties to be comparable due to either differences in size or age.
18. In support of his contention that the RV was correct he provided rental detail of properties he considered comparable which analysed between £53.73 per m² and £73.67 per m². He considered this supported the adjusted price of £66.50 per m² with the most weight being given to 30 Dark Lake View. He stated that cost of parking was not included within the scheme.
19. The panel firstly considered the rent. It noted that the only rental evidence available on the appeal property was from February 2016 and February 2021 and both had been set at £13,000 per annum. Whilst occurring after the AVD the panel considered that from the evidence the rent passing at the AVD would have been similar to that passing in 2016 and 2021. The panel therefore considered the rental evidence on the appeal property to be of assistance.
20. The panel considered the Valuation Officer's comparable hereditaments. The panel accepted that they appeared to be located within industrial/commercial estates with good parking and loading and was not within the immediate locality of the appeal property. The appeal property was located in a mainly residential area with no off-street park or service yard to enable off-street loading and loading. The panel therefore attached less weight to these comparable properties.
21. The panel noted that the appellant's representative comparable properties, whilst within the immediate locality of the appeal property, were of a different size or age and therefore lesser weight was placed on these comparable properties.
22. The panel considered that the rent on the appeal property, albeit after the AVD, provided the best evidence of level of rent. It also reflected the level of disadvantages would have on rental levels. The panel therefore accepted the rent which reflected all the disadvantages and confirmed RV £13,000 with effect from 1 April 2017.

Order

23. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £13,000 with effect from 1 April 2017 within two weeks of the date of this order.

Refund of appeal fee

24. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: Thursday 7 September 2023

Appeal number: CHG100879655

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.