THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2017 Rating List; retail 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 allowed in part

APPEAL NUMBER: CHG100889817

BETWEEN:	Argos Sainsburys	Appellant
	and	
	Joanne Moore Valuation Officer	Respondent

RE: Unit 2a, Edinburgh Way, Harlow, Essex, CM20 2TN ("the appeal property")

PANEL: Ms Janet Gittens (Presiding Senior Member)
Mrs Amanda Adeola (Senior Member)

CLERK: Mrs Deborah Davies BA (Hons), IRRV (Hons)

SITTING ON: 11 March 2024 (Remote Hearing 2)

APPEARANCES: Mr Yee Ke, from GL Hearn Ltd, the appellant's representative
Mr Lee Stevens, on behalf of the respondent

Summary of Decision

1. The appeal was allowed in part; the appeal property's assessment was reduced to £241,000 Rateable Value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal. The appeal property had been entered in the 2017 list as Retail Warehouse and Premises at an RV of £312,500. Following the submission of the Check on 14 September 2022, the Valuation Officer reduced the RV to £272,500. The appellant submitted the challenge on 20 December 2022 and the Valuation Officer determined the proposal to reduce

the RV to £185,000 not well-founded. That decision was appealed to this tribunal and the appeal was registered on 14 August 2023, the grounds being 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 appeal property was located on Harlow Retail Park, a small scheme approximately two miles from Harlow town centre, and within the main out of town shopping area.

4. In order to assist the tribunal, the parties had agreed all basic facts before the hearing. The measurements of the component parts were not in dispute and the area addition for air conditioning had been amended in line with the Check submission. The total area of the unit was 1599.97m^2 and the unit price rate was £170.00 per m^2.

5. The representatives of both parties appeared before the panel as advocates and expert witnesses. In Statements of Truth provided in evidence, and again at the hearing, both declared that they understood and fully accepted that their duty was to the Tribunal in giving evidence and that they would comply with this as well as the requirements of the professional body, regardless of whether or not the evidence supported the client's case.

6. This hearing was held remotely via Microsoft Teams. There was a small technical difficulty during the appellant's introduction. Proceedings halted whilst this was resolved, the hearing then continued without further interruption.

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

Issues

8. The issue before the panel was the price per m^2 to be adopted in the valuation.

Evidence and submissions

9. The evidence before the panel comprised all of the evidence disclosed and exchanged during the challenge process. This included rating assessments in support of tone (updated to reflect recent changes), the parties' skeleton arguments, a schedule of comparable rental evidence, and copies of the current and proposed valuations.

10. For the respondent, Mr Stevens contended that the appeal property’s assessment of £272,500 Rateable Value was reasonable, based on a rate of £170.00 per m^2. The appellant’s representative put forward a revised valuation of £185,000 (£115 per m^2).

Decision and reasons

11. The term ‘rateable value’ was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

12. The material day (the date by which physical factors have to be considered) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. For this appeal, the material day is 1 April 2017.

13. The panel analysed the competing evidence with reference to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, which was included within the evidence provided by the Valuation Officer. The Lands Tribunal decision provided guidance on the weight to be attached to rental and assessment evidence. The starting point was the rent, which for the subject property was £303,329, set in June 2016. The 23-year lease included a break clause with three months’ notice. Both parties agreed that the rent analysed to £189 per m^2. The appellant suggested that the landlord lacked security (due to the break clause) and the rent reflected that. The respondent acknowledged that it was not possible to put a monetary value on such a beneficial clause but pointed out that the rent was 10% higher than the adopted price per m^2.

14. Acknowledging the sparsity of rental evidence on the subject retail park, the panel nevertheless found the rent on the unit adjoining the appeal property to be persuasive. Dunelm, in the larger adjoining unit, agreed a rent of £303,616 in June 2015. The appellant analysed the rent to £113 per m^2. The respondent, whilst having analysed the rent to a broadly similar figure, argued that the number of adjustments required to the rent rendered it less useful for the purposes of comparison. Other rental evidence provided was for units on the neighbouring Queensgate Centre which was agreed by both parties to be a superior location with a better mix of shops and

leisure facilities. The panel therefore placed less weight on these rents, and, in line with *Lotus*, moved on to consider the assessments on other comparable properties.

15. There was information about 12 comparable properties for the panel to consider. The properties were all very close by, on one of three retail parks – Queensgate, the Oaks and Harlow. It was common ground that the Oaks was an older, less attractive retail park than Harlow Retail Park, whereas Queensgate was considered more desirable. Reviewing the data, the panel could see that reflected in the assessments, with the assessments for Harlow Retail Park being slightly closer to those of the Oaks than those of Queensgate.

16. The assessment for Homebase was revised in March 2024. On the same retail park as the subject property but in a much larger unit, the unit price was reduced from £170 per m^2 to £152.50 per m^2 to reflect quantum. Dunelm's adjoining unit was assessed at £195 per m^2 but the panel noted that this figure was subject to an outstanding Challenge.The panel noted that assessments for retail units on the Oaks varied from £95 per m^2 to £175 per m^2, whilst on Queensgate the range was £190 per^2 to £250 per m^2.

17. The panel knew that rental evidence carried the most weight but was faced with two quite different analysed rents on the adjoining units. The panel considered that the rent for the subject property would include a premium for the beneficial break clause and noted that there would have been growth between the AVD and June 2016 when the rent was agreed. The panel found the rental evidence for the adjoining Dunelm Unit to be persuasive but considered that, due to the lack of other comparable properties on the subject site it could not be determinative. It considered that the appropriate assessment lay between the two rents.

18. Taking all of the evidence into consideration, the panel allowed the appeal in part as it found that the current assessment was unreasonable. The panel determined that the price per m^2 should be £150, resulting in £241,000 RV. There is a breakdown of the revised assessment below.

Description	Area m^2	£/m^2	Value £
Sales	402.73	150.00	60,409.50
Office	12.82	150.00	1,923.00
Office	16.06	150.00	2,409.00
Storage	14.00	150.00	2,100.00
Warehouse	1,130.62	150.00	169,593.00
Mess/Staff room	20.42	150.00	3,063.00
Internal Storage	3.33	150.00	499.50
Air Conditioning	431	4.00	1,724.00
Total			**£241,721.00**
Say £241,000 RV with effect from 1 April 2017			

Order

19. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £241,000 RV, with effect from 1 April 2017, within two weeks of the date of this Order.

Refund of fees

20. If the appeal was successful (either in part or full) a refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 8 April 2024

Appeal number: CHG100889817

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.