THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2017 Rating List; factory and premises; accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

APPEAL NUMBER: CHG100890032

BETWEEN:	Papworth Furniture Ltd and	Appellant
	Joanne Moore Valuation Officer	Respondent
RE:	Unit 4, Stirling Way, Papworth Everard, Cambridge, CB23 3GX ("the subject 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:	Ms Rachel Emms, from Hampton Lovett Consultant Surveyors Ltd, the appellant's representative Mr Ken Bainbridge, on behalf of the respondent	

Summary of Decision

1. The appeal was dismissed; the appeal property's assessment remained unaltered at £106,000 Rateable Value with effect from 1 April 2017.

Introduction

2. The appellant challenged the accuracy of the compiled list assessment in the 2017 Rating List. The challenge was submitted on 20 December 2022. The Valuation Officer determined that the proposal was not well founded, declining to make any change to the appeal property's

rateable value, and issued a decision notice to that effect on 1 June 2023. The Valuation Officer's decision was appealed to this tribunal and the appeal was registered on 22 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 a two-storey industrial unit constructed circa 2000. Located on an industrial park approximately ten miles from Cambridge it was constructed of brick and block with a steel portal frame roof. It was fully heated and insulated.

4. In order to assist the tribunal, the parties had agreed all basic facts before the hearing. The total area of the subject property was 2,338.77m^2, with a total significant area (TSA) of 2,039.62m^2. The TSA excludes any area described as a mezzanine and those with a relativity of under 0.3. The adopted base rate was £50.00 per m^2.

5. Both parties appeared before the panel as advocates.

6. This hearing was held remotely via Microsoft Teams.

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

Issues

8. There were two issues before the panel:
    a. the correct base rate to be applied to the subject property's rating assessment
    b. whether the mezzanine floor should be included in the valuation

Evidence and submissions

9. The evidence before the panel comprised of two documents, containing all of the evidence disclosed and exchanged during the challenge process. This included rating assessments in support of tone, the parties' skeleton arguments, photographs of the appeal property, including the mezzanine floor, and photographs of comparable properties.

10. For the respondent, Mr Bainbridge contended that the appeal property's existing assessment of £106,000 Rateable Value was reasonable, based on a base rate of £50.00 per m². The appellant's representative put forward a revised valuation of £97,500, (£47 per m²) in the base rate applied.

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 taken into account) 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 rent was considered the starting point. The rent for the subject property was noted to be £128,840 but as this was set in 2022 it was too far from the AVD for the panel to attach any significant weight to it. There was no comparable rental evidence provided.

14. Therefore, in line with *Lotus*, the panel moved on to consider the assessments on other comparable properties.

15. The appellant's representative had provided six comparable properties for the panel to consider. Three of the properties had a significantly larger TSA than the appeal property and two of these were only partially heated. The base rate of £45-£45.76p/m² reflected this and a factor for quantum. Two of the properties were smaller than the subject property and valued on the same base rate of £50p/m². The final of the appellant's comparable properties was comprised of three units of different ages, and each was assessed at a different base rate.

One of the units was on the same scheme as the appeal property but was smaller and was therefore assessed at an unadjusted base rate of £55p/m^2. The panel was not persuaded by this evidence, noting that it appeared that the appellant had determined a figure of £47p/m2 based on an average of the chosen comparable assessments.

16. There was no map provided to show the location of the comparable properties in relation to the subject property, but the panel noted that the addresses and postcodes covered a wider geographical spread than the comparators selected by the Valuation Officer, which, like the subject property, were on Stirling Way.

17. The seven properties listed by the Valuation Officer ranged in TSA from 853.15m^2 to 7204.98m^2. The panel considered the clear pattern in the adopted base rate to be very supportive of the Valuation Officer's case. For properties with a TSA below 1100m^2 the base rate was around £53 p/m^2. Between 1100m^2 and 2500m^2 the rate was £50m^2 and above 2500m^2 it dropped to £45 and lower.

18. The panel considered the appellant's contention that the mezzanine should not be included in the overall assessment because it was freestanding. The photographs showed a substantial structure, bolted to the floor for safety reasons, and accessed by a sturdy staircase. The appellant's representative had cited "Amazon v Cannock Chase" in support of this contention but had been unable to provide a copy in her submission. The panel recognised from the Lands Tribunal decision in *Rogers v Evans* [1985] LVC/852/1984 that a substantial mezzanine floor, such as the one in the appeal property, effectively comprised an additional floor and, as part of the building, is rateable.

19. Taking all of the evidence into consideration, the panel determined that the present price of £50 per m^2 for the appeal property was not unreasonable. The appeal was dismissed.

Date: 8 April 2024

Appeal number: CHG100890032

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.