THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; warehouse and premises; rental evidence; comparable assessments; appeal allowed in part.

RE: R/O 43, High Street, Walsall WS8 6HH

APPEAL NUMBER: CHG100732671

BETWEEN:	Leisure Automatics Properties	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent

PANEL: Mr MH Smith (Senior Member)
Miss R Punia

CLERK: Mrs H Beresford

REMOTE HEARING ON: 3 April 2024

APPEARANCES: Mr J Sharpe of Rabbette Chartered Surveyors (Appellant's representative)
Miss M Dinham (for the Valuation Officer)

Summary of decision

1. The appeal was allowed in part; the assessment was reduced to rateable value (RV) £2,600 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of R/O 43, High Street, Walsall WS8 6HH (the 'appeal property'), which was entered in the 2017 rating list as 'store and premises' at RV £4,150, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was made to the Valuation Tribunal for

England (VTE). The appeal was made because the Valuation Officer decided to alter the 2017 rating list from £4,150 to £3,700 following the appellant's challenge. The appellant had sought a reduction to RV £1,850 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the Valuation Officer had not made sufficient alteration to the rating list in his challenge decision notice.

5. The appeal property has an area of 126m^2 and comprises a store and premises. It is a timber constructed single storey building with a flat roof which was formerly a sorting office. It is located behind what was the post office on the high street in Brownhills in an area that is predominantly retail in nature. It also has 142m^2 of unsurfaced, unfenced land.

6. The appellant's representative, when appearing as expert witness, stated that he was not on a conditional fee arrangement, and neither was Rabbette Chartered Surveyors.

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

Issue

8. The disputed issues related to the main space price; the Valuation Officer argued for a price of £30.75/m^2 with an end allowance of 10% for poor construction resulting in an RV of £3,600 whilst the appellant's representative contended that £12.50/m^2, resulting in an RV of £1,850 was fair and reasonable.

Evidence and submissions

9. The bundle of evidence comprised the documents exchanged between the parties as part of the challenge process which included, amongst other things, the appellant's challenge submission and full supporting information, the exchanges of evidence between the parties, site and location plans, the Valuation Officer's challenge case decision notice, photographs and details of the appeal property and those cited as comparable, and a copy of the proposed valuation.

Decision and reasons

10. The panel had to determine the RV for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD) of 1 April 2015. This common date was used to ensure that every property was treated in a consistent way.

11. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (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;

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"

12. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and comparable assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties can also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted. The panel noted that in this case there was no rental evidence presented by either party.

13. Mr Sharpe referred to three comparable properties at the challenge stage which he contended supported £12.50/m^2 for the appeal property. These were:

- R/O Brownhills Memorial Hall & Youth Centre, Lichfield Road, Brownhills, WS8 6HR - this property comprises two brick buildings, one with a corrugated asbestos roof, the other a flat roof. There is good access and car parking adjacent. It has a base rate of £25/m^2.
- Cadet Centre (ACF/ATC), Barnetts Lane, Walsall, WS8 6HZ - this property is described as 'hall and premises'. It is of wooden construction with a pitched metal roof and a base rate of £12.50/m^2.
- Unit 3 Triton Works 187, Stringes Lane, Willenhall, WV13 1LD - this property is an industrial unit with metal walls and roof located on an industrial estate in Willenhall it is in the same valuation scheme as the appeal property. This property is described as a 'workshop and premises' with a floor area of 120.5m^2 and a base rate of £26.12/m^2

14. The panel noted that the first two properties were in different schemes to the appeal property and whilst they were similar types of building, they were both community halls; R/O Brownhills Memorial Hall & Youth Centre had been valued on an address matrix applicable to clubs and institutes whilst the Cadet Centre (ACF/ATC) was valued on an address matrix applicable to community and day centres, and halls and huts. The panel found that, as such, these properties would both be likely to command a lower rent than an industrial property capable of making a profit. Consequently, the panel could only attach moderate weight to this evidence.

15. Unit 3 Triton Works 187, Stringes Lane, Willenhall, was an industrial unit in the same scheme as the appeal property and was very similar in size. The panel noted that this property was a purpose built industrial property in a better location than the appeal property and was of superior construction with a greater eaves height and better access. This property had an adjusted base rate of £26/m^2 as compared to £30.75/m^2 for the appeal property. The panel found this to be good evidence and it attached significant weight to it.

16. The Valuation Officer had not provided any evidence but submitted that the Unit 3 Triton Works was of a similar standard to the appeal property. Miss Dinham argued that the actual base rate for Unit 3 Triton Works 187, Stringes Lane, Willenhall was £31/m^2 but due to reductions for lack of heating, lack of insulation and poor construction the base rate was reduced to £26/m^2.

17. Having regard to the evidence and arguments presented to it, the panel found the evidence from the appellant's representative to be persuasive and it did not consider the current RV to be reasonable given the disadvantages of the appeal property in terms of its location and poor construction. Having taken into consideration the evidence presented, the panel found that a base rate of £20.75/m^2 would be more appropriate along with the 10% end allowance for poor construction.

18. Therefore, the panel determined that the correct RV for the appeal property with a revised base rate of £20.75/m² is £2,600. This is calculated as follows:

Floor	**Description**	**Area (m²)**	**Price (£/m²)**	**Total Value (£)**
Ground	Former Sorting Office	115.51	20.75	2,397
Ground	Staff Toilets	10.51	20.75	218
Land		142.00	2.00	284
			Sub-total	2,899
	Poor construction	10%		-290
			Total Value	£2,609
			RV Say	£2,600

Order

19. 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 amend the entry in the rating list to show a revised assessment of £2,600 RV for the appeal property, with effect from 1 April 2017.

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

21. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 26 April 2024

Appeal number: CHG100732671

Appeal rights:

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.