THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; 2017 Rating List; 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 dismissed.

RE: Unit 1, Hargreaves Way, Mannaberg Way, Scunthorpe, DN15 8XE (The “subject property”)

APPEAL NUMBER: CHG100901470

BETWEEN:	Nexon SCM Group Ltd (Represented by Altus Group)	Appellant
and	Joanne Moore (Valuation Officer)	Respondent

PANEL: Mr A Ramsay (Senior Member)
Mr M Bhatti (Member)

CLERK: Mr J Massey

REMOTE HEARING: Monday 22 January 2024

APPEARANCES: Ms C Taylor from Altus Group (Appellant’s representative)
Ms R Witt - Valuation Officer’s representative

Summary of Decision

1. The appeal was dismissed. The panel determined an unadjusted rate of £25.80 per m² for the subject property was reasonable and confirmed the RV at £142,000 with effect from 1 April 2017.

Introduction

2. The appellant’s representative had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 25 January 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded and refused to alter the existing assessment of £142,000 RV. A decision notice to that effect was served on the appellant on 23 June 2023 and the appellant’s representative then appealed the VO’s decision to the tribunal on 6 July 2023, on the grounds 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 subject property was a detached warehouse, built in 2001, in the Sawcliffe Industrial area to the North of Scunthorpe town centre. It consists mainly of warehouse space with a small element of office space within an agreed total area of 5,627.04m^2. The rate adopted by the respondent of £25.16 per m^2 includes a 2.5% reduction from the unadjusted rate (UAR) of £25.80 per m^2 to reflect the disadvantage of being unheated.

4. In order to assist the tribunal, the parties had agreed all basic facts and the analysis of the competing rental evidence.

5. Both parties appeared before the panel in a dual capacity as both Advocate and Expert Witness. Ms Taylor stated that she was on a success related fee but accepted that her first duty was to the Tribunal and that she would comply with this duty together with the requirements of her professional body, regardless of whether or not the evidence supported the appellant's case. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), the panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was 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 in England).

6. The panel therefore, considered the "expert" evidence and attached such weight to it as it saw fit.

7. The statement of truth signed by Ms Witt confirmed that she was not instructed under any conditional or other success-based fee arrangement.

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

Issue

9. The issue in dispute before the panel was the correct tone of value rate to be applied to the subject property. The appellant sought a reduced entry of £133,000 RV based on a UAR £24.10 per m^2. On behalf of the respondent, Ms Witt defended the Valuation Officer's existing assessment of £142,000 based on a UAR of £25.80 per m^2.

Evidence and submissions

10. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton arguments, expert witness statements, photographs of the subject property and location plans and valuations of the subject property and comparable properties.

Decision and reasons

11. 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.

12. The starting point for consideration was the actual rent passing on the subject property. The rent passing at the AVD resulted from a new lease on full repairs and insurance (FRI) terms effective from 1 September 2010 for a rent of £156,000 per annum (pa). This had been analysed by the respondent at £28.06 per m^2. The appellant considered that this rent was agreed four and a half years prior to the AVD and was not indicative of the rental value of the subject property at the AVD.

13. The subject property was again let on a new three-year lease on FRI terms with effect from 1 May 2020 for £166,000 pa. The respondent had adjusted this rent to £150,623 pa to account for a three-month rent-free period, which analysed to £27.09 per m^2. Again, the appellant considered that this rent held little weight as it was agreed five years after the AVD. The respondent considered that both rents showed that over the period from September 2010 to May 2020, rental values fully supported the adopted value of £25.16 for the subject property.

14. The panel noted that the analysed rent for the subject property did fall slightly during this period but was not persuaded by the appellant's suggestion that this fall demonstrated that the subject rent would have been lower at the AVD than in 2010.

15. Ms Taylor considered that the subject rent was a starting point but should be considered along with all the relevant rental evidence of other similar properties in the local area in setting the rateable value for the subject property. In terms of indirect rental evidence, she considered the rent passing on Balmer Lindley Group Ltd, Part Plot 1, Dragonby Value Enterprise Park, Mannaberg Way, Scunthorpe, Lincs, DN15 8XF("Balmer Lindley") provided the best indication of the AVD value of the subject property as it was a similar property type, close to the subject property and within the same valuation scheme. Its rent was agreed on a new six-year lease from 1 August 2015 on repair only terms at £80,000 pa which the appellant had analysed to £25.43 per m^2. Given that it was smaller than the subject property with an agreed total area of 2,951.39 m^2 the appellant considered that adjusting the analysed rent down to reflect quantum would indicate that an adjusted rate of £23.50 for the subject property was reasonable.

16. The respondent did not consider that the Balmer Lindley property was comparable to the subject property as it was a vehicle workshop with separate "Nissen Hut" paint and repair shops. The appellant disputed that the Balmer Lindley Group property was a vehicle workshop when its lease was agreed in 2015 to an engineering firm with similar processes to the occupier of the subject property.

17. The panel considered that the rent agreed for Balmer Lindley in August 2015 would reflect the poorer quality of some of its accommodation as well as its inferior access. It did not therefore consider this rent to support a reduction in the UAR of the subject property.

18. The respondent had referred to the rents agreed for Unit 2 Hargreaves Way which was adjacent to the subject property. At 3,621.25 m^2 it was smaller than the subject property, and its rents, agreed on 1 November 2011 and 1 April 2019 had been analysed to £34.84 per m^2 and £26.52 per m^2 respectively. Although the panel noted these rents were from 3 ½ years before the AVD and 4 years after, it considered that the level of rents over this period demonstrated that the UAR applied to the subject property was not excessive.

19. Ms Taylor had referred to properties which she considered to be comparable to the subject property but had been assessed at a lower UAR.

- Plots 14-16, Ram Boulevard, Scunthorpe, Lincs DN15 8QW (3,901m^2) – UAR £23.55 per m^2
- Phase 11, Cupola Way, Scunthorpe, Lincs DN15 9YJ (3,239m^2) - UAR £23.16 per m^2
- Roxburgh House, Atkinsons Way, Foxhills Ind Estate, Scunthorpe, Lincs DN15 8QJ (4,715m^2) - UAR £22.60 per m^2

20. The panel noted from the plans provided by the parties that these comparable assessments were located on Foxhills Industrial Estate, which was older with a more congested layout than Sawcliffe Industrial Area, and considered they were therefore not reflective of values within Sawcliffe Industrial Area.

21. The respondent's comparable assessments included six industrial units in the Sawcliffe Industrial Area, which were within the same valuation scheme as the subject property. They ranged in size from 875.2m^2 to 8,662.55m^2 and had been assessed at UARs ranging from £23.55 per m^2 for the largest to £36.05 per m^2 for the smallest. Given the range of sizes of these properties, and the values attributed to them in line with the valuation scheme, the panel considered that the UAR attributed to the subject property of £25.80 was reasonable.

22. Having had regard to the whole basket of rental evidence, the panel placed some weight on the rents on the subject property and Unit 2, Hargreaves Way. Whilst they were agreed several years either side of the AVD, the panel considered that they indicated that rents over the period from September 2010 to April 2019 were agreed for the subject property and its similar neighbouring property at a higher level than the UAR attributed to the subject property. There was no evidence before the panel that these rents had fallen around the AVD and then increased as suggested by the appellant. Whilst the rent for Balmer Lindley was agreed closest to the AVD, the panel considered that it reflected the different attributes of Balmer Lindley and did not support a reduction for the subject property.

23. In appeals of this nature the burden of proof rested on the appellant's representative to prove her case for a reduction. However, in the case before it, the panel concluded that she had failed to produce sufficient evidence to justify her claim that the UAR of £25.80 per m^2 applied to the subject property was excessive. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated, and the appeal was dismissed.

Date: 19 February 2024

Appeal number: CHG100901470

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.