THE VALUATION TRIBUNAL FOR ENGLAND

*Non-domestic rating appeals; 2017 Rating List; factory and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141; tone of value of main space; comparable assessments; appeals allowed in part.*

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| RE: | Wrap Film Systems Ltd, Hortonwood 45, Telford TF1 7FA ("the subject hereditament") |
| APPEAL NUMBERS: | CHG100935230 & CHG100935298 |

BETWEEN: Melitta UK Ltd. — Appellant

and

Valuation Officer — Respondent

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| SITTING: | Remotely via Microsoft Teams Conference Call |
| ON: | 5 March 2024 |
| PANEL: | Mrs N Crawshaw (Senior Member)<br>Mrs C Parkes |
| CLERK: | Mr S Fletcher IRRV (Hons) |
| APPEARANCES: | Mr M Caldwell of Altus Group (Appellant's representative)<br>Ms R Pike (Respondent's representative) |

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## DECISION and STATEMENT OF REASONS

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### Summary of decision

1. The appeals were allowed in part. The panel determined the rateable value (RV) of the subject hereditament to be £378,000 with effect from 1 April 2017 and £378,000 with effect from 4 April 2022.

## Introduction

2. The appeal process began with challenges made by the appellant's representative on 2 March 2023 in respect of the Valuation Officer's (VO) compiled list entry of the subject hereditament at £420,000 RV with effect from 1 April 2017 and its list entry with effect from 4 April 2022. The VO had altered the list with effect from 4 April 2022 following a change to the survey data due to the existence of a portable building, however, this did not affect the RV. The appellant's representative proposed a revised assessment of £365,000 RV from both list entries based on a reduced main space rate.

3. The respondent issued a challenge case decision notice on 25 August 2023, which stated that based on the evidence available, the existing rating list entry of £420,000 RV with effect from 1 April 2017 was reasonable. The respondent did not consider that evidence had been provided to reduce the tone of value of the main space rate from £32.50 per $m^2$ to £28 per $m^2$ as proposed by the appellant's representative. The appellant's representative appealed that decision to this Tribunal on 27 September 2023 on the grounds that the valuation for the subject hereditament was unreasonable.

4. The subject hereditament was a portal steel framed factory and premises of 11,886$m^2$. It was located on Hortonwood Industrial Estate in the north of Telford. The respondent first inspected the subject in December 1996 with a view to entering it into the rating list. The panel was satisfied the building was constructed in 1995, as that was the date it was first registered according to its title document.

5. Mr Caldwell 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), the representative confirmed that he was instructed under a conditional fee arrangement. He 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.

6. The panel accepted this expert witness evidence on the above basis as the parties agreed the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of Valuation Tribunal for England (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).

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

## Issue

8. The issue for the panel to determine was the correct rateable values to be

attributed to the subject hereditament in the 2017 rating list. The issue in dispute concerned the tone of value for the main space. All adopted relativities were agreed by the parties.

**Evidence and submissions**

9. Arguments and factual evidence from both the appellant's representative and the respondent were provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant's representative's challenge submission, the respondent's challenge decision notice and reference to, and photographs of, properties deemed comparable to the subject hereditament by the parties. The Lands Tribunal's judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 was also referred to.

10. The appellant's representative sought a revised RV of £365,500 following a reduction to the main space rate to £28 per $m^2$. The rent at the subject was renewed at £435,000 with effect from 22 July 2011 and reviewed to £490,000 with effect from 1 November 2016. The appellant's representative argued that the rents were remote from the AVD and had provided comparable assessments deemed preferable to determine a tone of value.

11. The respondent contended that the list entry of the subject hereditament was reasonable based on a main space rate of £32.50 per $m^2$. The rent at the subject had been analysed by the respondent to £36.57 and £40.98 in 2011 and 2016 respectively. The respondent contended that the analysed rents supported the main space rate given it was lower. The respondent also relied on comparable assessments to support its valuation of the subject.

**Decision and reasons**

12. The subject hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

13. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

14. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material days were 1 April 2017 and 4 April 2022.

15. It is a well-established rating principle that the starting point in the determination of a property's RV should be the rent passing on the subject

hereditament itself as held in *Lotus and Delta.* The lease on the subject was renewed on 22 July 2011 at £435,000 which the respondent had analysed to £36.57 per $m^2$. It was reviewed on 1 November 2016 to £490,000 which the respondent analysed to £40.98 per $m^2$. The respondent contended that the analysed rent supported its determined tone of value for main space of £32.50 per $m^2$. The appellant's representative contended that the rents were of little assistance in determining RV as they were either a renewal or review, and remote from the AVD.

16. Both parties referred to several assessments in Telford deemed comparable to the subject hereditament within either the Hortonwood Industrial Estate to the north of Telford and where the subject was located, Stafford Park, one mile away from Hortonwood Industrial Estate which was located more centrally and closest to the M54, or Halesfield Industrial Estate, which was towards the south.

17. The comparable assessments submitted by the respondent were all factories and premises located on Hortonwood Industrial Estate. Hager Powertech was built in 1991, 12,642$m^2$ and had the same tone of value of main space as the subject. Avara Foods was built in 1998, 18,670$m^2$ and its main space rate was £37.50 per $m^2$. Makita was built in 1991, 24,106$m^2$ and had its main space rate of £30.00 per $m^2$ agreed at challenge. Epson was built in 1988, 41,402$m^2$ and had its main space rate of £28.00 per $m^2$ agreed at challenge. Ms Pike contended that industrial units were more unique and individual when in excess of 10,000$m^2$, and should be valued accordingly. Mr Caldwell stated that the two assessments with a tone of value of £32.50 per $m^2$ or higher had not been through the check, challenge, appeal process, and the two which were settled were valued at a lower main space rate than the subject.

18. The comparable assessments from the appellant's representative were also all factories and premises, however, they were located across the three previously aforementioned industrial estates. Each assessment had either been well-founded or agreed at challenge. Toyota Tshuho UK Ltd was the closest geographically to the subject submitted by the appellant's representative, and Innovation House and Unit D were also located on the Hortonwood Industrial Estate. Toyota Tshuho UK Ltd was built in 1995, 6,431$m^2$ and its main space rate was £30 per $m^2$. Innovation House was built in 1992, 7,789$m^2$ and its main space rate was also £30 per $m^2$. Unit D, Hortonwood 2 was built in 1981, 9143$m^2$ and its main space rate was £28 per $m^2$. The respondent did not consider the assessments to be good comparables as they were smaller than the subject.

19. Mr Caldwell stated that his comparable assessments at Hortonwood Industrial Estate were of a similar age and located in close proximity to the subject. He argued that the Valuation Schemes of the assessments demonstrated that tone of value for main space decreased in line with larger properties. Both Toyota Tshuho UK Ltd and Innovation House had a tone of value for main space of £37.50 per $m^2$ prior to reduction at challenge. Mr Caldwell argued that quantum must have been a factor at the subject given it was larger than

those comparables yet was determined at a lower tone of value by the respondent.

20. The appellant's representative had also relied on comparable assessments on Stafford Park and Halesfield Industrial Estate. Telford Extrusions, Exel House and Synnex House were located at Stafford Park. Telford Extrusions was built in 1988, 12,615$m^2$ and its main space rate was £27.00 per $m^2$. Exel House was 11,367$m^2$, and Synnex House was 12,406$m^2$. Their tone of value for main space was £28.50 per $m^2$. Precision Colour Printing Ltd, Magna House and Proto Labs were located on Halesfield Industrial Estate. They were between 15,378$m^2$ and 17,276$m^2$, and had a main space rate between £27 per $m^2$ and £30 per $m^2$.

21. Mr Caldwell argued that Stafford Park was a more desirable estate than Hortonwood Industrial Estate given its proximity to Telford Town Centre and motorway access. He argued that the tone of value for the subject was an outlier at £32.50 per $m^2$ when compared to his comparable assessments, all of which were agreements or settlements, built between 1980 to 1996, between 6,000$m^2$ and 17,000$m^2$ in size with an agreed tone of value for main space in the range of £27 per $m^2$ to £30 per $m^2$.

22. Ms Pike contended that Hortonwood Industrial Estate was superior to both Stafford Park and Halesfield Industrial Estate due to its relative modernity, and argued this was reflected in rental evidence which demonstrated higher rents at Hortonwood than the other estates. She argued that the tone of value for main space at the subject was not out of kilter with the tone of her comparable assessments which remained unchallenged.

23. The panel determined that little weight should be applied to the rents provided for the subject hereditament. The rents were either a renewal or a review rather than new lettings, and remote from the AVD being agreed in 2011 and late 2016.

24. The panel considered the comparable assessments submitted by the respondent. It noted that Avara Foods, Makita and Epson were significantly larger than the subject hereditament, Epson being over three times so. Makita and Epson had a lower tone of value than the subject.

25. Toyota Tshuho UK Ltd and Innovation House were smaller than the subject yet also had a lower tone of value of main space following reduction after agreement. The panel found it significant that those two assessments had been originally determined with a tone of value for main space at £37.50 per $m^2$ before being reduced to £30.00 per $m^2$. The panel found the tone of value for main space for Makita and Epson and the originally determined tone of value for main space for Toyota Tshuho UK Ltd and Innovation House demonstrated that quantum was a factor in the assessments when considering their respective sizes. It also found the tone of the main space for the subject to be excessive when compared to Toyota Tshuho UK Ltd given it was across the road and circa double its size. As such, it determined that the

subject hereditament, being larger than Toyota Tshuho UK Ltd and Innovation House should have a tone of value for main space less than £30 per $m^2$.

26. The respondent's representative had verbally contended that the Hortonwood Industrial Estate was more desirable than Stafford Park and Halesfield Industrial Estate which was reflected by rental evidence. The only rental evidence provided in the written submissions was for the subject hereditament, therefore the panel was unable to compare any rents between similar properties on the estates to establish whether there was any differential in the rents between the localities. The panel did not consider that Stafford Park was any less desirable than Hortonwood Industrial Estate, given its central location and close access to the M54. Furthermore, it was only a mile away from the location of the subject.

27. The panel, therefore, attached significant weight to the comparable assessments at Stafford Park submitted by the appellant's representative. Telford Extrusions, Exel House and Synnex House were similar in size to the subject and had a tone of value for main space agreed at either £27 per $m^2$ or £28.50 per $m^2$. The panel attached less weight to the comparable assessments at Halesfield Industrial Estate as they were further away from Hortonwood Industrial Estate.

28. Having regard to the evidence, the panel was persuaded that the tone of value for the main space should be reduced and determined that a main space rate of £29 per $m^2$ was fair and reasonable. This was below the tone of value for main space at Toyota Tshuho UK Ltd and Innovation House at Hortonwood Industrial Estate as the subject was larger, and above the range of tone of main space of Telford Extrusions, Exel House and Synnex House at Stafford Park which were older than the subject. Finding for the appellant's representative would have put the subject hereditament in line with the main space rate of Epson, which the panel found would be unreasonable given it was vastly larger than the subject and it considered quantum was a significant factor in its assessment.

29. The revised assessment for the compiled list entry with effect from 1 April 2017 as determined by the panel was as follows:

| **COMPONENT PARTS OF PROPERTY** | | | | |
|---|---|---|---|---|
| **Floor** | **Description** | **Area $m^2$/unit** | **£ per $m^2$/unit** | **Value (£)** |
| Ground | Production Area | 11,121.50 | 29.00 | 322,524 |
| Ground | Office | 549.90 | 34.80 | 19,137 |
| Mezzanine | Internal Storage | 417.30 | 14.5 | 6,051 |
| Ground | External Storage | 156.60 | 21.75 | 3,406 |
| Ground | External Storage | 14.60 | 21.75 | 318 |
| Ground | Office | 22.70 | 31.9 | 724 |
| First | Office | 20.70 | 31.9 | 660 |
| | | | | |
| **ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION** | | | | |
| | Plant and Machinery | | | 25,173 |

| | |
|---|---|
| **Valuation sub-total** | 377,993 |
| **Say RV** | 378,000 |

30. The revised assessment for the list entry with effect from 4 April 2022 as determined by the panel was as follows:

| **COMPONENT PARTS OF PROPERTY** | | | | |
|---|---|---|---|---|
| **Floor** | **Description** | **Area $m^2$/unit** | **£ per $m^2$/unit** | **Value (£)** |
| Ground | Production Area | 11,121.50 | 29.00 | 322,524 |
| Ground | Office | 549.90 | 34.80 | 19,137 |
| Mezzanine | Internal Storage | 417.30 | 14.5 | 6,051 |
| Ground | External Storage | 156.60 | 21.75 | 3,406 |
| Ground | External Storage | 14.60 | 21.75 | 318 |
| Ground | Office | 22.70 | 31.9 | 724 |
| First | Office | 20.70 | 31.9 | 660 |
| | | | | |
| **ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION** | | | | |
| | Plant and Machinery | | | 25,173 |
| | Portable Building | 15.40 | 31.1 | 479 |
| | | | **Valuation sub-total** | 378,472 |
| | | | **Say RV** | 378,000 |

31. The panel therefore allowed the appeals in part as it considered the respondent's valuations of the subject hereditament unreasonable, but not to the extent as sought by the appellant's representative.

## Order

32. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject hereditament's entry in the rating list to £378,000 RV with effect from 1 April 2017 and £378,000 RV with effect from 4 April 2022. The respondent must comply with this order within two weeks of its making.

33. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

**Date:** 2 April 2024

**Appeal numbers:** CHG100935230 & CHG100935298

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## 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.