THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; *Factory and premises; main space price; appeal dismissed.*

RE: SMR Automotive Mirrors, 2 Castle Trading Estate, Fareham, Hampshire PO16 9SE

APPEAL NUMBER: CHG100942207

BETWEEN:	SMR Automotive Mirrors	Appellant
	and	
	Ms D Bunyan (Valuation Officer)	Respondent

PANEL: Ms A Ursprung (Presiding Senior Member)
Mr W Read (Senior Member)

CLERK: Mr R Gath IRRV Hons

REMOTE HEARING 2 on 24 November 2023

APPEARANCES: Mr O Hamblin from Altus Group (Appellant's representative);
Ms J Burns (Valuation Officer's representative)

Summary of decision

1. Appeal dismissed. The panel concluded that the main space price of £45/m^2 with an additional 5% allowance for split/divided unit, and the resultant rateable value of £432,500, was correct.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 7 March 2023. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 28 March 2023 and his representatives then appealed the VO's decision to the Tribunal on 12 June 2023 on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A of

the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The appeal property was a factory and premises, built in 1992 with an agreed area of 9095.90m² and benefited from 6 metre eaves height.

4. Mr Hamblin appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Hamblin's declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.

5. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).

6. Ms Burns had provided some late evidence which was historic rental information for the appeal property, which she considered would assist the panel. Mr Hamblin initially objected to this new evidence as it contained rental analysis which he considered would prejudice him as he would not have the opportunity to respond. Ms Burns then provided the rental schedule which he did not object to.

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

Issue

8. The issue in dispute before the panel was the correct tone of value to be applied to the appeal property. Mr Hamblin had sought a reduced entry of £315,000 RV based on an unadjusted value of £35/m². Ms Burns defended the VO's existing assessment of £432,500 based on an unadjusted value of £45/m².

Evidence and submissions

9. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence for the appeal property and the parties' comparable properties, photographs of appeal property and their skeleton arguments.

Decision and reasons

10. 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. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other

comparable properties may also be relevant. All of the evidence can then be weighted.

11. The starting point for consideration was the actual rent passing on the appeal property. The lease was entered into some years before the AVD and therefore the 2014 rent was a rent review. The parties entered into a new lease in 2019, but the panel considered that this was too far from the AVD to be reliable and it did not fulfil the rating hypothesis as a new tenant coming fresh to the scene.

12. The appeal property had been placed in valuation scheme number 434936 which was for industrial properties in Hampshire over 10,000m^2 and on the Isle of Wight over 7,000m^2 of any age. The values ranged from £13/m^2 to £75/m^2.

13. To support the value of 45/m^2 the VO had referred to 20 Davis Way which had an area of 18,906.15m^2 had been valued at £40/m^2; Block B Railway Triangle which had an area of 12,121.54m^2 had been valued at £50/m^2; Hendy Car Store which had an area of 10,159.31m^2 had been valued at £40/m^2 and Units 1-2/4 Interchange Park which had an area of 11,648.61m^2 had been valued at £55/m^2.

14. However, the panel applied little weight to Hendy Car Store as it was a car sales site and to 20 Davis Way as it was nearly double the size of the appeal property.

15. Mr Hamblin argued that a number of similar sized properties had been valued at between £32.50/m2 to £35/m2 which suggested that the value of the appeal property was too high.

16. The panel applied little weight to most of Mr Hamblin’s comparable properties as they were located in Basingstoke, Petersfield, Alton and Havant. The panel understood that the appellant had used these comparable properties as the VO’s scheme covered industrial properties in Hampshire, which included these locations. However, the panel also understood that different locations will have various advantages/disadvantages. For example those locations in places such as Basingstoke and Petersfield were closer to London and those located closer to Portsmouth enjoyed good access to ferries to Europe and other parts of the country.

17. The panel also applied less weight to them as they were older than the appeal property having been constructed in the 1960s and they had a lower eaves height.

18. Turning to the other comparable properties, the panel also applied less weight to the Huhtamaki factories as there were larger and located in Gosport, which, from the map appeared to be further away from the M27. It also considered that MMD shipping was not comparable as it was located in the dockyard in Portsmouth which the panel considered may be a disadvantage.

19. From Mr Hamblin’s submissions, the only comparable properties the panel considered to be reliable in terms of location were FPT Industries and Condor Industries which were both located in the PO3 postcode area and located close to the M27/A27 and therefore considered to be comparable in terms of location. These units were larger with areas of 14,020.97m^2 and 13,509.96m^2 respectively and were valued at 32.50/m^2. The panel understood that being larger these units would benefit from a quantum allowance, but the parties were unable to explain

to the panel the size that a quantum allowance would start and from the evidence presented the panel were unable to determine this.

20. However, Ms Burns contended that FPT Industries had been valued lower as it had a lover eaves height.

21. The parties disagreed over the age of Condor Logistics. Ms Burns contended that it had been built in the 1970s whereas Mr Hamblin argued that it had been built in the 1980s. Unfortunately, as neither party was able to prove their respective arguments, as there were doubts over the age the panel considered this unit to be unreliable to determine the value for the appeal property.

22. As the panel considered that Mr Hamblin's comparable properties were not comparable to the appeal property in terms of age, location or eaves height and there were doubts over the age of the one unit, the panel was more reliant on the VO's comparable properties.

23. In the absence of any substantial evidence to prove otherwise, the panel concluded that the value of £45/m² and the resultant rateable value of £432,500 was not excessive. The panel dismissed the appeal.

Date: 22 December 2023

Appeal number: CHG100942207

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.