VALUATION TRIBUNAL

The Independent Body for Council Tax and Rating Appeals

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## VALUATION TRIBUNAL FOR ENGLAND

*2017 Rating List appeal: training centre and premises; Lotus & Delta Ltd v Culverwell (LO) and Leicester City Council [1976]; rental evidence; assessments of comparable properties; unadjusted rate in dispute; appeal dismissed.*

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| APPEAL NUMBER: | CHG101052535 | |
| RE: | Unit F, Halesfield 14, Telford, TF7 4QR<br>(the "subject property") | |
| BETWEEN: | Evolution Foods Ltd | Appellant |
| | and | |
| | Lucy Formela-Osbourne MRICS<br>(Valuation Officer) | Respondent |
| SITTING: | *remotely using Microsoft Teams* | |
| ON: | 3 June 2024 | |
| BEFORE: | Ms CJ Jones (Presiding Senior Member)<br>Ms J Gittens (Senior Member) | |
| CLERK: | Mrs J Smith IRRV (Tech) | |
| APPEARANCES: | Mr T Hogg of Altus Group – representing the appellant<br>Mrs R Pike – representing the Valuation Officer | |

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## DECISION AND STATEMENT OF REASONS

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### Decision

1. The appeal is dismissed.

2. The panel confirmed a rateable value (RV) of £58,000 for the subject property with effect from 21 September 2021.

**Introduction**

3. This is a 2017 rating list appeal. Unit F, Halesfield 14,Telford, TF7 4QR (the subject property) had entered the 2017 rating list as 'training centre and premises' at RV £58,000 with effect from 21 September 2021.

4. The challenge proposal was submitted by Altus Group on behalf of Evolution Foods Limited and was received by the Valuation Officer on 19 April 2023. It had been made on the grounds that the RV shown in the rating list on 21 September 2021 was inaccurate. A revised RV was proposed of £48,250 with effect from 21 September 2021.

5. The Valuation Officer issued a challenge case decision notice on 29 August 2023 which disagreed with the proposed alteration of the list. The material date was 21 September 2021.

6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable.

7. Mr Hogg, of Altus Group, 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), Mr Hogg confirmed that he was instructed under a contingency fee basis and he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

8. 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).

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

10. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

## Background

11. The subject property is a single storey warehouse described in the rating list as a 'Training Centre and Premises'. It is situated on Halesfield Industrial Estate which is an established business park located to the south of Telford, in close proximity to the A442 Queensway, which links to the M54 motorway. It had been built in 1974 and has a Total Significant Area (TSA) of 1911.92m$^2$. It is valued at an unadjusted rate at £30.00/m$^2$. At the check stage the Valuation Officer amended the survey details and reduced the RV from £59,000 to £58,000 with effect from 21 September 2021.

12. The appellant's representative had argued that the unadjusted rate adopted is excessive based on the rental and agreement evidence of comparable properties and sought a reduction

to £27.25/$m^2$ which resulted in his proposed assessment of RV £52,500 with effect from 21 September 2021.

13. The Valuation Officer defended the present assessment of RV £58,000 with effect from 21 September 2021.

**Relevant Law**

14. 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”.

**Discussion**

15. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the AVD, 1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

16. The Lands Tribunal judgment in Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

17. Mrs Pike had referred to the rent on the subject property of £72,800 per annum, agreed in February 2014, which she had analysed at £37.63/$m^2$. However, the ratepayer had been in occupation since 2003 and Mrs Pike was unable to confirm if this was a renewal of the lease or a rent review. Mrs Pike considered that this rent completely supported the current price of £30.00/$m^2$ and that, having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, the rental evidence of the subject property was the best evidence.

18. However, the panel was aware from *Lotus v Delta* that, whilst the best evidence was the subject rent, especially when close to the AVD, this was a starting point, and where available,

rents on similar properties should also be taken into account and weight applied to the entire basket of evidence according to its merits.

19. Mr Hogg had suggested that the rent on the subject property was an ‘outlier’ and had referred to the rents passing on other properties on the Halesfield business park. These included Unit B1 and B2, Halesfield 13, which had a new lease made on 21 July 2015. The rent had analysed at £26.68/$m^2$. This property, at 1909.60$m^2$, was a similar size to the subject property. However, Mrs Pike had stated that this property was occupied by a charity and as such the rent negotiated might have been more favourable for the tenant. She also pointed out that the adopted rate of £30/$m^2$ was the same as that for the subject property and the assessment had not been challenged in the 2017 list.

20. Mr Hogg had also referred to three other units on the business park, Unit 6, Halesfield 21, Unit C and D, Halesfield 20 and Units D and F Halesfield 19. The panel acknowledged that their rents had all been agreed in 2015, close to the AVD, and had analysed at between £24.92/$m^2$ and £27.69/$m^2$. However, they were all significantly larger than the subject property, ranging in size from 3533.60$m^2$ to 6668.90$m^2$.

21. Mr Hogg had contended that the agreement reached on Units D1-D2 & E1-E2, Halesfied 21, where the unadjusted rate had been reduced by the Valuation Officer from £30/$m^2$ to £27.25/$m^2$ suggested a revised unadjusted rate of £27.25/$m^2$ was reasonable for the subject property. This property was similar in size and had been built between 1965 and 1970. Mr Hogg suggested that the rent on the subject property, which had been available when the agreement was reached, had not been brought forward by the Valuation Officer during any discussions. In his view this supported his argument that this rent was an outlier.

22. Mrs Pike asserted that values varied between locations within the large estate and that the tone for Halesfield 21 was lower than that for Halesfield 14 as it was a quieter area where the units were much older. She had stated that the Valuation Officer had used rental evidence in the immediate locality in Halesfield 21 when considering the assessment of Unit D1-D2& E1-E2 and that properties within this particular location were now valued in a different matrix to reflect this.

23. Mrs Pike had included in her submission, the assessments of the two units on either side of the subject property, neither of which had been challenged. These were Unit A Halesfield 14, which was slightly larger at 2075.10$m^2$ and had an adopted value of £28.19/$m^2$ and Tamworth Electrical Co Limited which was on Halesfield 13 but located next to the subject property, and had an adopted value of £30.00/$m^2$.

24. The panel found there were shortcomings in the evidence of both parties. Mrs Pike had not submitted any rental evidence of comparable properties to support any differences in value within the different areas of the estate and Mr Hogg had not provided any photographs of his comparable properties, making it more difficult for the panel to be persuaded by his arguments. Whilst Mr Hogg’s comparable evidence for Units D1-D2 & E1-E2 was persuasive, the panel found the assessments of the properties on either side of the subject property carried more weight. Furthermore, the rent on the subject property, whilst not a new letting, was agreed close to the AVD and at £37.63/$m^2$, it was difficult to argue that an unadjusted rate of £30/$m^2$ was excessive. Ultimately the burden of proof is on the appellant to persuade the Tribunal that the RV was unreasonable and in this case, the panel was not persuaded by the arguments put forward by Mr Hogg.

## Disposal

25. In view of the above findings the panel concluded that it had not been demonstrated that the present RV of £58,000 was unreasonable and therefore the appeal was dismissed.

**Date issued to parties:** 2 July 2024

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## 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.

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