VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; retail premises; accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed.

APPEAL NUMBER:	CHG101056667	
RE:	77-79, Garman Road, London, N17 0UN (the "appeal property")	
BETWEEN:	Ashmount Flooring Supplies	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	17 February 2025	
BEFORE:	Mr PJ Ward, Presiding Senior Member Mr N De Freitas, Senior Member	
CLERK:	Mrs D Davies IRRV (Hons) BA (Hons)	
APPEARANCES:	Mr Matt Morrison, of Ryan Property Tax Services Ltd, on behalf of the appellant as both advocate and expert witness Mr Christopher Cates, on behalf of the respondent as advocate	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal panel determined that the appeal property's assessment should be reduced to £133,000 Rateable Value (RV) with effect from 1 April 2017, based on a rate of £70/m^2.

Introduction

3. This is a 2017 rating list appeal. The appeal property had been entered in the 2017 list as a

warehouse and premises, RV £151,000. The appellant was seeking a reduction in the RV to £133,000. The valuation officer determined the challenge to be not well-founded and so the appellant appealed to this Tribunal. The appeal was registered on 19 September 2024, the grounds being 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.

4. In order to assist the panel, the parties had agreed all basic facts before the hearing.

5. Mr Morrison was appearing on behalf of the appellant as advocate and expert witness. He confirmed that his company was employed on a contingency fee basis. Both representatives declared that they understood and fully accepted that their duty was to the Tribunal in giving evidence and that they would comply with this as well as the requirements of the professional body, regardless of whether or not the evidence supported the client's case. The panel accepted the expert witness evidence on the above basis: the appeal was not considered complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations. The panel determined that it was appropriate to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

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

Background

7. The appeal property is an industrial unit built in 1979. It is of brick and steel frame construction with a maximum eaves height of 5 metres. It has double glazed windows and roller shutter doors. Measured according to gross internal area (GIA), it is 2,403m^2. The assessment includes 12 parking spaces.

8. The evidence before the panel comprised of the information disclosed and exchanged during the challenge process. The submissions included photographs of the appeal property and comparable properties, a location plan of the property, rating assessments in support of tone, the parties' skeleton arguments, and a copy of the current and proposed valuations.

Preliminary issue

9. On the morning of the hearing the respondent's representative sent in some additional photographs of the appeal property. The panel allowed the evidence as the appellant's representative confirmed that he had no objections.

Relevant Law

10. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

11. The material day (the date by which physical factors have to be considered) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. For this appeal, the material day is 1 April 2017.

Discussion

12. The panel analysed the competing evidence with reference to the findings in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, which was included in the evidence documents. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence.

13. The rent on the appeal property is accepted to be the correct starting point, with consideration given to how that rent accords to the terms of the statutory definition of rateable value. However, in this case the appeal property was held on a freehold basis and so there was no rent passing. There was no rental evidence provided in respect of other properties and so, in line with *Lotus & Delta*, the panel moved on to consider the assessments applied to other comparable properties.

14. The appellant's representative had provided assessment details of four warehouses on the same street as the appeal property, all of which were assessed at £70/m^2. He described 63-65 as the most comparable, stating that it benefitted from roof and wall insulation and heating throughout. The panel noted from the photographic evidence that the two properties were similar in appearance, with a similar eaves height, brick-built offices and steel cladding above. The valuation officer pointed out that this office was built a few years earlier that the appeal property, in 1971, and stated that the arrangement of office and workspace was different. Mr Morrison argued that the difference in age was not material, and not sufficient to support a difference of £10/m^2.

15. The other comparable properties put forward by the appellant's representative were built before 1965. The panel noted from the photographs that these properties were mostly brick built. All of the suggested comparable properties were smaller than the appeal property, in the range from 1,503m^2 to 1,620m^2. There was no evidence in respect of quantum put forward by either party, although the panel knew that it was not unusual for the rate per metre^2 to decrease as the area increased.

16. Mr Cates queried the lack of rental evidence and challenge reductions put forward by the appellant's representative in support of their case. Mr Morrison replied that there were no exactly identical properties in the locality, but he considered 63-65 Garman Road, at only eight years older than the appeal property, and with a reasonably similar specification, to be a good comparator.

17. The panel asked Mr Cates why the respondent had not provided any comparable evidence in support of £80/m^2. He replied that he could not answer for the actions of his colleague but stated that it was for the appellant to make their case. The panel was not persuaded by this response, finding that there was no evidence before it to show that the appeal property should be assessed more highly than the neighbouring warehouses.

18. The panel considered the difference in the ages of the units but were not convinced by the available evidence that it supported the difference in the rate/m^2.

Disposal

19. In view of the above findings and taking a 'stand back and look approach', the panel is satisfied that the current assessment is unreasonable. The panel allowed the appeal, determining that the unadjusted rate per square metre should be reduced to £70/m^2. The revised valuation is shown below.

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ m^2/unit**	**Value £**
1.1	Ground	Warehouse	251.01	70.00	17,571
1.2	Ground	Office	11.55	84.00	970
1.3	Ground	Trade Counter	33.88	84.00	2,846
1.4	Ground	Meeting Room	22.03	84.00	1,851
1.5	Ground	Internal Storage	12.26	70.00	858
1.6	Ground	Internal Storage	14.54	70.00	1,018
1.7	Ground	Kitchen	4.7	84.00	395
1.8	Mezzanine	Internal Storage	538.51	35.00	18,848
1.9	Ground	Internal Storage	217.42	70.00	15,219
1.10	Ground	Internal Storage	17.73	70.00	1,241
1.11	Ground	Office	18.03	84.00	1,515
1.12	First	Office	34.71	84.00	2,916
1.13	First	Office	15.57	84.00	1,308
1.14	First	Internal Storage	217.67	45.50	9,904
1.15	First	Internal Storage	8.12	45.50	369
1.16	Mezzanine	Internal Storage	12.06	35.00	422
1.17	Mezzanine	Kitchen	2.55	77.00	196
1.18	Ground	Area under supported floor	538.51	49.00	26,387
1.19	Ground	Warehouse	416.39	70.00	29,147
1.20	Ground	Office	15.93	84.00	1,338
			2403.17		134,319
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION					
		Surfaced Covered Spaces	12	465.00	5,580
		VALUATION SUB-TOTAL			139,899
ADJUSTMENTS MADE TO SUBTOTAL					
		Poor layout	-5.00%		-6,716
		VALUATION TOTAL			**133,183**
				SAY	**133,000**

Order

20. As a consequence of the above decision, the Tribunal Panel orders the Valuation Officer to reduce the 2017 Rating List entry to £133,000 RV, with effect from 1 April 2017, within two weeks of the date of this Order.

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 (as amended). This will take approximately six weeks to process.

Date issued to parties: 28 February 2025

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.