VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Warehouse and Premises; Accuracy of compiled list entry; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed in part.

APPEAL NUMBER:	CHG101057169	
RE:	R/O Park Farm, Buckland Down, Frome, BA11 2RG (the "subject property")	
BETWEEN:	A J Charlton and Sons Ltd	Appellant
	and	
	Ms L Formela-Osbourne (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	9 August 2024	
BEFORE:	Ms R Sharma, Presiding Senior Member Ms C Caiquo, Senior Member	
CLERK:	Mr J Massey IRRV(Dip)	
APPEARANCES:	Mr J Barnes of JBA Surveying Ltd representing the appellant Miss A Brown representing the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The panel determined an unadjusted rate of £37 per m² for the warehouse extension of subject property was reasonable and confirmed the RV at £60,500 with effect from 24 January 2022.

Introduction

3. 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 2 May 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 £66,500 RV effective from 24 January 2022. A decision notice to that effect was served on the appellant on 10 November 2023 and the appellant's representative then appealed the VO's decision to the Tribunal on 9 March 2024, 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.

4. The hereditament was a detached warehouse, originally built between 1955 & 1964. The subject of this appeal (the 'subject property') consisted of additional warehouse space with net internal area of 506.8m^2 which was added in the early 2000's and the sole dispute was regarding the unadjusted rate of £51.20 adopted for that space. The challenge sought a reduction in price to £37.00 per m^2 and a 10% allowance for low headroom and uneven floors which resulted in RV £58,750. In his appeal, Mr Barnes stated that he was no longer contending for a 10% allowance and he therefore revised his proposed valuation to RV £60,500.

5. As Mr Barnes appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the Tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

6. Mr Barnes declared that he was not instructed under any conditional fee arrangement. He confirmed 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.

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

8. As part of their induction training, a new member of the Tribunal was observing proceedings. It was explained to the parties that it was the panel's intention to invite their colleague to accompany it to the retiring room. The parties were assured that the new member would not participate in the decision-making exercise but would simply observe as part of their training. Neither party had any issues or objections to this.

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

Issue

10. The issue in dispute before the panel was the correct tone of value to be applied to the more modern warehouse building at the subject property. The appellant sought a reduced entry of £60,500 RV based on a rate of £37.00 per m^2. On behalf of the respondent, Ms Brown defended the Valuation Officer's existing assessment of £66,500 based on a rate of £51.20 per m^2.

Evidence and submissions

11. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included details of the parties' comparable properties, the parties' skeleton arguments, expert witness statements, photographs of the subject property and valuations of the subject property.

Decision and reasons

12. 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.

13. No rental evidence had been provided by either party either for the subject property or for comparable hereditaments. Both parties considered that the tone of assessment had been established due to settlements on comparable assessments.

14. The appellant had provided details of four warehouse assessments located between 8 and 8.5 miles from the subject property which had been all been assessed at a base rate of £37.00 per m^2. They ranged in size from 666m^2 to 1,595m^2 and had been included in a valuation scheme 352926, which was described as *'applicable to industrial, trade counter and warehouse properties in Mendip DC, with a BA4, 7, 10, 11, 12, 13, 14 postcode unless otherwise specified, typically built '10 to '19 inclusive'*. He considered that whilst the subject property was built circa 2005, there was little difference in the construction of the subject property and industrial units built between 2010 and 2019.

15. The respondent's comparable assessments comprised three industrial properties which ranged in size from 51.86m^2 to 405.8m^2. They had been assessed in line with the same valuation scheme as the subject property - *311321 applicable to industrial villages in BA4,7,10,11,12,13,14 built '00 – '09*. The rates adopted for these properties ranged from £69.23 per m^2 to £76.05 per m^2. Miss Brown stated that her comparable properties were of similar age to the subject property and between 8 and 13 miles away and supported the adopted rate of £51.20 per m^2 for the larger subject property. She argued that the newer properties cited as comparable by the appellant were valued in a separate scheme due to their different characteristics.

16. The appellant had provided an internal photograph of the subject property and of one of his comparable properties - Timbersource Ltd, Quarry Way, Waterlip, BA4 4RN. From these, the panel noted that there was no apparent difference in construction between the subject property, and the more modern Timbersource Ltd property. Miss Brown contended that the evidence used to create the two age related schemes supported a higher value for older properties in the locality. However, given the similarities in construction between the subject property and more modern properties, the panel would have expected the higher maintenance costs of the older subject property to reduce the rental bid of a hypothetical tenant for an older property.

17. Overall, the panel found the appellant's comparable properties to be most persuasive and was satisfied that they supported a reduction in the rate applied to the subject property to £37.00 per m^2.

Disposal

18. In view of the above findings and conclusions, the Tribunal Panel determined the assessment of the subject property at £60,500 rateable value and the appeal was allowed in part.

Order

19. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list for the subject property to £60,500 RV in accordance with the valuation below, with effect from 24 January 2022.

20. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date issued to parties: 20 August 2024

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.

Ref	Floor	Description	Area m^2	£ per m^2/unit	Value (£)
1.1	Ground	Store	99.8	25.95	2,590
1.2	Ground	Store	29.7	25.95	771
1.3	First	Warehouse	807.3	26.61	21,482
1.4	Ground	Store	187.1	25.95	4,855
1.5	Ground	Store	21.1	25.95	548
1.6	Ground	office	29.4	31.14	916
2.1	Ground	Warehouse	506.8	37.00	18,752
		Display area	1150	2.50	2,875
		Rear yard	2655	3.00	7,965
		Valuation Total			60,753
		Say RV			60,500