VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Warehouse and premises; Relativity for canopies; Unadjusted base rate; Appeal dismissed.

APPEAL NUMBER: CHG101058179 & CHG101058176

RE: The Palletline Centre ,Starley Way, Solihull, B37 7HB
(the "subject property")

BETWEEN: Palletline Limited
(represented by Rabbette Chartered Surveyors) Appellant

and

Lucy Formela-Osbourne
(Valuation Officer) Respondent

SITTING: *remotely using Microsoft Teams*

ON: 21 October 2024

BEFORE: Ms LS Marshall, Presiding Senior Member
Mr SC Kamalan, Senior Member

CLERK: Mrs S Hodgson IRRV(Dip)

APPEARANCES: Mr K Rabbette for the appellant
Mr C Skerratt for the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel determined the Rateable Value (RV) of the subject property at £905,000 with effect from 1 April 2017 and £925,000 with effect from 22 June 2017.

Introduction

3. These were 2017 rating list appeals. The subject property had been entered in the 2017 rating list as “Warehouse and Premises” at an RV of £890,000 with effect from 1 April 2017 and £905,000 with effect from 22 June 2017.

4. The challenge proposals were submitted by Paul Rabbette Ltd on behalf of Palletline Ltd and were received by the Valuation Officer (VO) on 25 February 2022. The proposals had been made on the grounds that the RV shown in the rating list was wrong and proposed a reduction in the unadjusted base rate from £52.50 per square metre (psm) to £42.50 psm with effect from 1 April 2017, and an amendment to the relativity used for the canopy from 25% to 15% with effect from 22 June 2017.

5. The VO issued challenge case decision notices on 19 and 20 October 2023. The VO’s decision reduced the RV to £885,000 with effect from 1 April 2017.

6. Mr Rabbette 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) he confirmed that he was instructed under a contingency fee for his advocacy and on a fixed fee as an expert witness. 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.

7. The panel accepted this 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).

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

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

Background

10. The subject property was a warehouse and premises located in Birmingham, which was constructed in 1994. In addition to the warehouse accommodation, there is a single storey office block and a two-storey office block. With effect from 22 June 2017 an additional warehouse block was added to the assessment.

11. The parties jointly inspected the subject property on 11 July 2024. Following this inspection a number of elements that were not included in the valuation were identified and agreed between the parties. Due to this the size of the appeal property at the two effective dates was 20,781.34m^2 and 21,540.18m^2 respectively.

12. Due to the agreed amendments of the assessment, the RV increased to £905,000 with effect from 1 April 2017 and £925,000 with effect from 22 June 2017. Mr Rabbette sought a reduction to £710,000 with effect from 1 April 2017 and £725,000 with effect from 22 June 2017.

Relevant Law

The Local Government Finance Act 1988

13. Schedule 6 of the Act provides that:

    2(1)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.

14. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

15. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, there were two material days for the two appeals, 1 April 2017 and 22 June 2017.

Discussion

16. The two issues that were before the panel in this appeal were the unadjusted base rate and the relativity used for the canopy.

Relativity for canopy

17. The panel heard from Mr Rabbette that for an industrial property like the subject property, canopies should be valued at 15% of the main rate. He stated that the canopy at the subject was not superior and there was no reason for assessing it at a different rate.

18. Mr Rabbette had provided photographs of canopies that, in his opinion, were comparable to the subject property. These canopies were valued with a 15% relativity. The comparable assessments were Parcelforce Worldwide in Coventry which was also occupied by Palletline Ltd, and Hadley Industries in Smethwick.

19. Mr Skerratt contended that the subject property had a full-length canopy which gave full coverage to vehicles and had a full sprinkler system and fire protection. He stated that the subject property was a large distribution warehouse where canopies were attributed a 25%

relativity. Mr Skerratt referred the panel to Altitude 206 in Witton which was also a large distribution warehouse and was valued with a 25% relativity, with a small adjustment for a limited sprinkler system.

20. The panel reviewed the photographs and details that had been provided of the canopy at the subject property and the comparable assessments. It was the panel's opinion that the canopy at the subject property was superior to the canopies at Parcelforce Worldwide and Hadley Industries. The panel had heard that the comparable assessments had no fire protection and noted they were not full size as the subject property was.

21. For these reasons, the panel found that sufficient evidence had not been provided to demonstrate that the relativity of the canopies at the subject property should be reduced to 15%.

<u>Unadjusted base rate</u>

22. Mr Rabbette had referred to the *Carpetright PLC v Ray (VO)* [2014] UKUT 0145 (LC) judgement and contended that in this appeal the VO's approach was not supported by the case law, as factories do comprise relevant evidence when valuing large distribution warehouses. He stated that there was no case law which supported the use of valuation schemes, and the schemes were used by the VOA for ease of comparing properties. He argued that this should not preclude evidence from outside schemes being considered.

23. The panel agreed with this view as the definition of rateable value was specifically linked to the rent the hereditament would achieve, subject to assumptions, and not the value placed on a scheme. However, the panel was aware that the use of schemes by the VOA was a common practice and did assist in grouping similar properties together.

24. The subject property is owner occupied and therefore there is no rental evidence to assist in the valuation. Mr Rabbette provided rental analysis for three properties:

    <u>Wincaster House</u>
    This was a new 25-year lease with effect from 8 November 2013 for £700,554 per annum. There were break clauses at 15 and 20 years, with 5 yearly upwards only rent reviews. Mr Rabbette analysed this to £46.82 psm.

    <u>Innovate Logistics</u>
    This was a lease renewal with effect from 1 August 2013. The rent was a stepped rent with rent reviews every five years. Mr Rabbette had analysed this to £52.46 psm.

    <u>Unit 8 Holford Industrial Park</u>
    This was a lease renewal with effect from 12 August 2013. It was a stepped rent with a rent-free period of almost 10 months. Mr Rabbette had analysed the rent to £37.16 psm.

25. Mr Skerratt had provided rental analysis for two properties on the Hams Hall Industrial Park:

    <u>Unit B Hams Hall Industrial Park</u>
    This was a rent review agreed on 15 March 2015, with the rent effective from 1 August 2015. Mr Skerratt had analysed the rent to £58.84 psm.

    <u>Unit C Hams Hall Industrial Park</u>

This was a lease renewal with effect from 14 December 2013 which Mr Skerratt had analysed to £58.36 psm.

26. In addition to rental evidence, both parties submitted comparable assessment evidence. Mr Rabbette argued that the location of the subject property was a major factor, and its proximity to the Birmingham Airport was not a benefit to the property or the occupier. He also stated that the proximity to the National Exhibition Centre (NEC) often led to traffic issues in the vicinity.

27. Mr Skerratt was of the opinion that the NEC had its own road system, and the subject property benefitted from two motorway junctions which provided good access. He also stated that the age of the properties made little difference in the valuation of large distribution warehouses, however he had used evidence of comparable properties of a similar age, constructed between 1990 and 2000.

28. The panel reviewed the comparable assessment evidence from the parties. In the evidence from Mr Rabbette were six assessments valued at unadjusted base rates between £36.50 psm and £47.00 psm, with the remainder either £50.00 psm or £52.50 psm. Many of the assessments had been subject to agreements. Mr Skerratt stated that the assessments referred to were not comparable as they were factories or general industrial properties.

29. Mr Skerratt had provided a table of comparable assessments that were all large distribution warehouses, constructed between 1990 and 2000, compared to the subject property which was constructed in 1994. Six assessments were subject to recent agreements, five at £52.50 psm and one at £51.00 psm. In addition, there eleven assessments with the same criteria, but no agreements, which were valued with an unadjusted base rate between £52.50 psm and £55.00 psm.

30. It was Mr Rabbette’s argument that the properties in the rating list at £52.50 psm were of a better specification or location to the subject property.

31. The panel considered Mr Rabbette’s contention that a variety of types and size of property should be used as evidence when valuing this type of warehouse. While it accepted the principle, and did not rule out the evidence provided, it was still for the panel to attribute weight to the evidence before it when making its decision.

32. In this appeal, the panel found that the best evidence was that of assessments which happened to be in the same scheme as the subject property. This was due to them being similar in age, size and type to the subject property. The panel found the best rental evidence to be the rent review at Unit C Hams Hall agreed less than a month before the AVD. All of the other rental evidence carried less weight due to its proximity to the AVD.

33. When considering the basket of evidence before it, and for the reasons above, it was the panel’s opinion that the RV on the subject property was not unreasonable.

Disposal

34. In view of the above findings and conclusions, the Tribunal Panel was satisfied that the RV of £905,000 with effect from 1 April 2017 and £925,000 with effect from 22 June 2017 for the subject property was not unreasonable. Therefore, the appeals were dismissed.

Date issued to parties: 20 December 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.