VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Non-Domestic Rating; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

APPEAL NUMBER: CHG101066390

RE: Unit 157 Culham Number One Site, Culham, Abingdon, Oxon, OX14 3DA (the "appeal property")

BETWEEN:	C P Steel Processing Limited	Appellant
	and	
	Andrew Mouland DipSurv MCMI MRICS (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Thursday 2 May 2024

BEFORE: Mr AN Backway, Senior Member
Mrs R Heald, Member

CLERK: Miss K Hendry IRRV(Tech)

APPEARANCES: Mr A Moore of Altus Group representing the appellant
Ms P Rowntree representing the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel confirmed the rateable value (RV) £52,500 with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. Unit 157, Culham Number One Site, Culham, Abingdon, Oxon OX14 3DA (the appeal property) had been entered in the 2017 rating list as ‘warehouse and premises’ at a RV of £52,500 with effect from 1 April 2017.

4. The challenge proposal was submitted by Altus Group on behalf of CP Steel Processing Limited and was received by the Valuation Officer (VO) on 24 May 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £46,750 was proposed with effect from 1 April 2017, based upon a reduced unadjusted rate from £28.00/m^2 to £25.00/m^2.

5. The VO issued a challenge case decision notice on 8 September 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

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. The appeal was lodged by Altus Group on behalf of the appellant,and received by the Tribunal on 12 December 2023.

7. Mr Moore appeared on behalf of the appellant as both advocate and expert witness. Therefore, it was important to ascertain 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). Mr Moore confirmed that he was instructed under a performance related fee 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 his 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. The appeal property was a single storey industrial unit used primarily as a warehouse. It was originally built between 1955-1964 and has a total significant area of 2025.70m^2. It has an eaves height of 10.0m. There is also land outside the property which was used for parking.

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

Background

12. The issue between the parties is whether the appeal property should be valued at a main rate of £28/m^2 as submitted by the VO or a main rate of £25/m^2 as the appellant’s agent submitted.

Relevant Law

13. The panel is governed by Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, which 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, the material day is 1 April 2017, being the date the subject property entered the rating list.

Discussion

16. The rent on the appeal property was held on a ten-year lease effective from 6 December 2013. There was no rent-free period included in the lease, however the rent was stepped at £39,500 per annum for the first year, £47,000 per annum for years two and three and £52,000 for years four and five until the fifth anniversary rent review. Mr Moore had calculated the net effective rent to £46,921 which against 1877.39m^2 in terms of main space (ITMS) produced an analysed rent of £24.99/m^2, which was below the adopted value of £28.00/m^2. Mr Moore believed that this indicated that the appeal property was over assessed.

17. In further support of a reduction, Mr Moore referred to rental evidence at a neighbouring property, Unit 143 Culham Number One Site. This unit was held on similar terms and produced a net effective rent of £46,921, against a ITMS of 1943.14m^2, it analysed to £24.15/m^2.

18. In response Ms Rowntree stated that the two rents were agreed in December 2013, approximately 16 months prior to the AVD and they did not take into account the rental growth in the locality which would have occurred leading up to the AVD. Rent on Unit 143 Culham Number One Site which was agreed on 1 December 2018 devalues to £38.00/m^2, She argued that rents up to any beyond the AVD were rising as can be evidenced by the rents on Building 120 (analysed rent £30.47/m^2 effective from 1 October 2014) and Unit 152

Culham Number One Site (analysed rent £29.76/m^2 effective from 1 November 2014) shows that rental growth took place between 2013 and 2018.

19. In response Mr Moore disagreed that the rental growth was as pronounced as suggested by the VO. He stated that the analysed rent on Unit 143 in December 2013 is £24.50/m^2, and in order to achieve the tone of £28.00/m^2 there would need to be rental growth of 15% in the period of between December 2013 and the AVD. Therefore the rent on Unit 143 would calculate to £49.00/m^2 when in reality the rent was agreed at £38.00/m^2.

20. The panel concluded that the appellant's representative had not successfully demonstrated that the appeal property should be assessed at a base rate of £25.00/m^2. It was clear to the panel that since the rent on the appeal property and neighbouring property of Unit 143, which was the same occupier, was agreed in 2013, rents in the area had grown. This was evidenced by the rent review on Unit 143 which analysed to £38.49/m^2 in 2018 from £24.15/m^2 in 2013, and other units in the locality, Building 120 and Unit 152.

21. Mr Moore had sought for a revised base rate of £25.00/m^2, but the panel held that this left no room for growth as the rent had analysed to £24.99/m^2 in 2013. Therefore, the panel held that £28.00/m^2 was not unreasonable.

Disposal

22. In view of the above findings, the panel concluded that it had not been demonstrated that the present RV of £52,500 was unreasonable and therefore the appeal was dismissed.

Date issued to parties: 24 May 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.