VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: workshop and premises; Lotus & Delta Ltd v Culverwell (LO) and Leicester City Council [1976]; rental evidence; assessments of comparable properties; unadjusted rate in dispute; end allowance for fragmentation in dispute; valuation of land in dispute; appeal allowed in part.

APPEAL NUMBER: CHG101071235

RE: Cordwallis Heathrow, Great South West Road, Feltham, TW14 8ND (the "subject property")

BETWEEN:	Cordwallis Commercials Limited	Appellant
	and	
	Lucy Dyer MRICS (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 6 December 2024

BEFORE: Mrs RS Choudhury (Presiding Senior Member)
Mr P Patel (Senior Member)

CLERK: Mrs J Smith IRRV(Tech)

APPEARANCES: Mr W Newton of Colliers – on behalf of the Appellant
Mr K Chamba – on behalf of the Valuation Officer

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The panel confirmed a rateable value (RV) of £228,000 for the subject property with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. Cordwallis Commercials Limited had been entered in the 2017 rating list at £240,000 RV with effect from 1 April 2017.

4. The challenge proposal was submitted by Mr Newton on behalf of Cordwallis Commercials Limited. It was received by the Valuation Officer on 7 June 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. The Valuation Officer issued a challenge case decision notice on 6 March 2024 which confirmed the RV of £240,000 with effect from 1 April 2017.

5. 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.

6. 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).

7. Mr Newton, of Colliers International, 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 Newton 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. Mr Chamba appeared as advocate and expert witness.

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

Background

12. The subject property is a workshop and premises located on the Great South Road next to Heathrow Airport. It was constructed in the 1960's and has a total significant area of 2410m^2. The property had been reclad since its original construction and has full central heating and an eaves height of 6m.

13. Mr Newton had argued that the unadjusted rate adopted is excessive compared with other more modern industrials of superior quality in the locality and sought a reduction to £55/m^2. He further submitted that the fragmented layout of the site warranted an allowance of 7.5% and that the valuation incorrectly assessed the property as having additional hard surfaced land. This resulted in his proposed assessment of £156,000 RV with effect from 1 April 2017.

14. The Valuation Officer defended the present assessment of £240,000 RV with effect from 1 April 2017.

Relevant Law

15. 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

16. 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.

17. 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.

18. Mr Newton had referred to the rent of the subject property, which had been agreed in 1999 at £230,000 per annum and had remained unchanged. Whilst he conceded that this letting was

of little assistance having been agreed many years ago, he pointed out that it had not changed despite several rent reviews since that date.

19. 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.

20. In terms of indirect rental evidence, Mr Chamba had referred to the rents passing on two other properties in the locality. Mercedes Benz Truck and Van, Stanwell Road, Feltham, TW14 8NW had a lease renewal in March 2015. The rent of £312,500 per annum had analysed at £125/m^2. This workshop and premises was the direct neighbour to the subject property and of similar age and eaves height. With a total area of 2063.57m^2 it was valued with an unadjusted rate of £80/m^2.

21. Mr Chamba had also referred to the rent of 4 Radius Park, Faggs Road, Feltham, TW14 0NH which had a new lease made in March 2015 of £178,065 per annum, which he had analysed at £125.16/m^2. At 1187.48m^2, it was smaller than the subject property and valued at £85/m^2.

22. No rental evidence was submitted by Mr Newton in respect of any comparable properties. As such, the panel went on to have regard to proposition four as set out in Lotus & Delta and the assessments of comparable properties.

Mr Newton argued that the subject property had been valued at the same tone as modern industrial units of superior quality within the locality. He provided examples of five other units that supported his assertion that the subject property had been overvalued. These were (VO comments in brackets):

B1 Parkway West, TW5 9QA

This unit is more modern, constructed post 1990 and has an eaves height of 8m. It is similar in size and has been valued at £80/m^2.
(situated 3 miles from the subject property)

Unit 4 Radius Park, TW14 0NG

A purpose-built distribution site in a prime Heathrow location of 1187m^2. Valued at £85/m^2.
(1.3 miles from subject property and less than half the size)

Unit 1 Space Way, TW14 0TH

Newer unit in prime Heathrow location around half the size of the subject property at 1004m^2. Agreed at challenge stage based on its open market rent close to the AVD at £75/m^2.
(significantly smaller than the subject property)

Unit 1, The Griffin Centre

Superior build to the subject property and in a better location. Similar in size and valued at £70/m^2.
(1.5 miles from subject property)

Unit 2, Pier Road Industrial Estate

Built in 1977 and comprehensively refurbished in 2014. Similar in size to the subject property and valued at £70/m^2.
(1.6 miles from subject property)

23. Mr Newton had also referred to Solus, Hayes Road, Hounslow, which he stated was most comparable to the subject property in terms of age and size. This had been valued at £60/m^2 in both the 2010 and 2017 rating lists.

24. Mr Chamba had referred to four other warehouses, all built between 1979 and 1984 and ranging in size from 1870.23m^2 to 2296.73m^2. These had been valued at between £80/m^2 and £87.50/m^2. Whilst he acknowledged that these were all more modern than the subject property, he considered them to be good comparable properties in terms of size and location.

25. The panel then turned to consider the second part of this appeal regarding an end allowance for fragmentation.

26. The subject property consists of two warehouse units and a separate office building. Mr Newton submitted that in other fragmented sites, an allowance of 5% was made where there were two separate units and an allowance of 7.5% where there were three. Whilst the warehouses were linked by an internal wall, the connecting door was small for a forklift truck. The office building was completely separate and some distance from the two warehouses. He contended there were duplicated maintenance costs due to the fragmentation of the site and sought an allowance of 7.5% on the basis there were three units.

27. Mr Chamba acknowledged that the subject property was divided and confirmed the case worker had offered a 5% allowance in recognition of the disadvantages. He added that no allowance had been made in respect of the 2010 rating list entry.

28. The panel then turned to consider the third part of this appeal regarding the area of hard surfaced land which was included in the assessment. This amounted to 581.94m^2 of rough surfaced, fenced land valued at £8/m^2 and 83.50m^2 of hard surfaced land, valued at £10/m^2. Mr Newton argued that this land was either essential for site egress and loading, or designated parking which was valued separately in the assessment. He referred to other similar assessments where he had recently agreed with the Valuation Officer on the complete or partial removal of land based on the principal that it should not attract any additional value since it was required for access and circulation.

29. Mr Chamba submitted that the 2010 assessment of this property was heard at Tribunal where the resultant valuation included the same amount of land as currently in dispute. Since nothing had physically changed since then, and the appellant had provided no supporting rental evidence to suggest otherwise, he contended that this part of the valuation should be treated the same as in the previous rating list.

30. In reaching a decision, the panel found Mr Chamba's rental and tonal evidence to be persuasive, in particular the rent on the subject property and that of Mercedes Benz Truck and Van which was adjacent to the subject property. They were located next to the airport and of similar size and eaves height. Furthermore, the lease for Mercedes Benz Truck and Van had been renewed close to the AVD. Mr Newton's comparable properties may have been more modern, but the panel did not consider this factor alone to be sufficient to suggest that an unadjusted rate of £80/m^2 for the subject property was excessive.

31. Regarding the fragmentation of the site, the panel considered the division of the two warehouses warranted an allowance of 5%. However, with regards to the office building, the panel did not consider that a further allowance was justified since there was no evidence to demonstrate that this was a disability.

32. In respect of the valuation of the additional land, the panel noted from the photographs submitted that this was not the designated car parking area to the front of the property, which was separately assessed but a parcel of land to the side of the building which appeared to be used for storage and additional parking. It had been included in the 2010 valuation and there was nothing to suggest that it had physically changed in the 2017 list. Therefore, the panel determined that the Valuation Officer was correct to include this land in the valuation of the subject property.

33. Ultimately the burden of proof is on the appellant to persuade the Tribunal that the RV was unreasonable, and, in this case, whilst he made some reasonable points, the panel was not persuaded by the arguments put forward by Mr Newton.

Disposal

34. In view of the above findings and conclusions, the panel found that whilst the unadjusted rate of £80/m^2 was not excessive for the appeal property, an allowance of 5% was warranted to reflect the fragmentation of the site. This resulted in a revised assessment of £228,076 (rounded to £228,000 RV) with effect from 1 April 2017. A breakdown of the assessment is shown below:

Line	**Floor**	**Description**	**Area m^2**	**£/m^2**	**Value £**
1.1	Ground	Workshop	95.58	80.00	7,646
1.2	Ground	Workshop	503.63	80.00	40,290
1.3	Ground	Spare Parts Dept	235.66	80.00	18,869

1.4	Ground	Workshop	487.41	80.00		38,993
1.5	Ground	Workshop	126.69	80.00		10,135
1.6	Ground	Internal Storage	6.08	80.00		486
1.7	Ground	Locker Room	7.31	88.00		643
1.8	Ground	Kitchen	1.55	96.00		149
1.9	Ground	Office	28.70	88.00		2,526
1.10	Ground	Showroom	184.83	96.00		17,744
1.11	Ground	Showroom	188.08	105.60		19,861
1.12	Ground	Office	124.72	105.60		13,170
1.13	Ground	Works Office	13.90	80.00		1,112
1.14	Ground	Workshop	30.02	80.00		2,402
1.15	Ground	Office	124.24	96.00		11,927
1.16	First	Office	126.02	96.00		12,098
1.17	Second	Office	126.02	96.00		12,098
		Rough Surfaced, Fenced Land	581.94	8.00		4,656
		Vehicle Wash Area	83.50	10.00		835
		Surfaced Open Spaces	104	235		24,440
Subtotal						240,080
Divided or Split Unit					-5%	-12,004
						228,076
Say £228,000 Rateable Value, with effect from 1 April 2017						

Order

35. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to RV £228,000 with effect from 1 April 2017 within two weeks of this Order.

36. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal’s decision. The refund will take around six weeks to process.

Date issued to parties: 3 January 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.
