VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: warehouses and premises; Lotus & Delta Ltd v Culverwell (LO) and Leicester City Council [1976]; assessments of comparable properties; unadjusted rate in dispute; appeal dismissed.

APPEAL NUMBER:	CHG101084576
RE:	Warehouses at Whitefields Farm, Tithby Road, Bingham, NG13 8GQ (the "subject property")

BETWEEN:	Whitefields Doc Storage	Appellant
	and	
	Joanne Moore IRRV (Hons) (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 Tech (IRRV)
APPEARANCES:	Mr W Stevens of Bird and Howes – representing the Appellant Mrs K Cockhill - representing the Valuation Officer

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel confirmed a rateable value (RV) of £30,250 for the subject property with effect from 1 August 2019.

Introduction

3. This is a 2017 rating list appeal. Warehouses at Whitefields Farm, Tithby Road, Bingham, Nottingham, NG13 8GQ had been entered in the 2017 rating list at £33,250 RV with effect from 1 August 2019.

4. The challenge proposal was submitted by William Stevens on behalf of Whitefields Doc Storage. It was received by the Valuation Officer on 25 July 2023. It had been made on the grounds that the RV shown in the rating list on 1 August 2019 was inaccurate. A revised RV was proposed of £20,250 with effect from 1 August 2019.

5. The Valuation Officer issued a challenge case decision notice on 9 May 2024 which confirmed the RV was unreasonable and notified a lower RV of £30,250 with effect from 1 August 2019.

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.

7. 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).

8. Mr Stevens, of Bird and Howes, 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 Stevens 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.

9. 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).

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

11. Mrs Cockhill, who due to technical issues attended the hearing by audio only, appeared as advocate and expert witness.

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

Background

13. The subject property is a former agricultural building, built between 1965 and 1970. It had been used to store potatoes before it was converted under agricultural planning around 2011. It consists of four bays, the third being built as an infill using the original structural supports. It is located in a rural setting off Tithby Road close to the A52 and A46. The total area of the property is 1073.25m^2 and it is valued at an unadjusted rate of £29/m^2.

14. Mr Stevens had argued that the unadjusted rate adopted is excessive compared with other properties in the NG13 postcode area and sought a reduction to £19/m^2. He further submitted that the entire warehouse is unheated, has no air conditioning and the floor has no load bearing capabilities. In addition, Internal access was restricted by the supporting pillars. It was accessed via a narrow, unadopted road and was situated in a farmyard with no exclusive unloading or parking areas.

15. The Valuation Officer defended the present assessment of £30,250 RV (£29/m^2) stating that it had been reduced from £33,250 RV (£32/m^2) to reflect its disabilities.

Relevant Law

16. 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

17. 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.

18. 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.

19. The subject property was held freehold by the appellant and therefore there was no passing rent to consider. Furthermore, no rental evidence was submitted by either party 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.

20. Mr Stevens argued that the subject property was located down an unadopted road off the A52 and that there was no exclusive loading area. The property could only be accessed through a single sliding door into bay 3 and the internal supporting pillars restricted movement. In his view a hypothetical tenant would recognise these disadvantages and would not deem it as valuable as a purpose-built industrial unit in the same locality.

21. Mr Stevens had referred to a number of properties which supported his assertion that the subject property was overvalued. These included the following (Mrs Cockhill's comments in brackets):

<u>*IM Axle Specialists, Bingham Road, Langar, Nottingham NG13 9HW*</u>

This property is located 2.8 miles from the subject property and is situated directly off Bingham Road and benefits from a proper loading yard. It is 633.75m^2 and valued at £29/m^2.

(Compares well with the subject property)

<u>*Tyre Barn, Grantham Road, Whatton, Nottingham, NG13 9EW*</u>

3.9 miles from the subject property on the A52. It is 446m^2 and valued at £23/m^2.

(This property is older and much smaller than the subject property)

<u>*Units at Whatton Lodge Farmyard, Grantham Road, Whatton, Nottingham, NG13 9EW*</u>

Approximately 3.7 miles from the subject property in a superior location on the A52 with superior access for HGVs. Built around 1970 and valued between £23/m^2 and £27/m^2.

(The VO records suggest these were built between 1900 – 1918 and therefore valued lower as much older than the subject property. These are now to be reviewed as they appear to have been undervalued taking into account their correct age. Units are of a different construction to the subject property)

Unit A and Unit B Mushroom Farm, Bottesford Lane, Orston, Nottingham NG13 9NX

Approximately 6.4 miles from subject property in a similar rural location away from the A52. Unit A is a similar size at 973.24m^2. Units valued at £13/m^2 and £15/m^2 respectively.

(Industrial properties built between 1955 and 1964 in an inferior location down a single-track lane with no passing places. Situated further away from transport links and valued to reflect these disadvantages.)

22. Mrs Cockhill acknowledged that the subject property had some disadvantages and that these were reflected in the reduction of RV from £33,250 to £30,250. However, she stated that the property was only one mile from the A52, and no more than 200m down a smooth tarmac road with passing places. Whilst it did not benefit from exclusive use of a yard, in her experience it was not uncommon for industrial units to share a loading area.

23. Mrs Cockhill had also referred to Unit 1 Lodge Farm Buildings, Saxondale, Nottingham, NG13 8AY which, measured 502.24m^2 and was valued at £31.23/m^2. Whilst this property was similar in age to the subject property and was closer to Nottingham, it was located down an unadopted road with a sharp bend turning into the entrance gate. Mrs Cockhill stated that, even allowing for the access issues, this property had been valued at a similar adopted rate to the subject property.

24. Both parties had referred to the property IM Axle Specialists Limited as being supportive of their respective cases. Mr Stevens had suggested that it was in a superior location and benefitted from an exclusive loading yard. Conversely, Mrs Cockhill, stated that IM Axle Specialists Limited had a lower eaves height and was further south of the Bingham Bypass. She refuted its superior location, arguing that the subject property was only 200m off the main road and whilst the unadopted road leading to it was narrow, Mr Stevens had confirmed during questioning that it was suitable for HGVs.

25. Of the other comparable properties, the panel noted that whilst Mushroom Farm was older than the subject property and Unit 1 Lodge Farm, was of a similar age, both were disadvantaged by poor access. In the panel's view the subject property was in a good location, accessible for HGVs and had sufficient space for loading and unloading.

26. In weighing up all the evidence, the panel found that all the comparable properties were different from the subject property in terms of age, size, access or locality. However, ultimately the burden of proof is on the appellant to persuade the Tribunal that the RV was unreasonable, and, in this case, the panel was not persuaded by the arguments put forward by Mr Stevens.

Disposal

27. In view of the above findings and conclusions, the Tribunal Panel confirmed that the subject property had been correctly valued at £30,250 RV with effect from 1 August 2019, and therefore the appeal was dismissed.

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.
