VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal; compiled list appeal; warehouse and premises; rental evidence; comparable properties; settlements; appeal allowed in part.

APPEAL NUMBER: CHG101090190

RE: UNIT G3, STEEL PARK ROAD, HALESOWEN B62 8HD
(the "appeal property")

BETWEEN:	Trans Global Freight Management Limited	Appellant
	and	
	Lucy Formela-Osbourne (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 26 March 2025

BEFORE: Mr C Derrick, Presiding Senior Member
Mr WJ Read, Senior Member

CLERK: Ms R Muller

APPEARANCES: Mr T Hogg of Ryan Tax Services UK Limited on behalf of the appellant as advocate and expert witness
Mr M Muqbil representing the Valuation Officer as advocate and expert witness

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed in part.

2. The Tribunal panel reduced the appeal property's assessment to £47,250 rateable value (RV) with effect from 1 April 2017.

Introduction

3. This appeal was a 2017 rating list appeal brought in respect of Unit G3, Steel Park Road, Halesowen B62 8HD (the appeal property). The property was entered into the 2017 rating list and described as 'warehouse and premises' at £54,000 RV with effect from 1 April 2017. It had been placed into scheme 395845.

4. Ryan Tax Services UK Limited, on behalf of the appellant, submitted a Challenge proposal that was received by the Valuation Officer (VO) on 14 July 2023. The proposal sought a reduction in the appeal property's assessment to £45,000 RV with effect from 1 April 2017.

5. The Challenge stage was completed on 28 March 2024 with no change to the RV of the appeal property. An appeal was received by the Tribunal on 17 May 2024 against the Challenge decision.

6. Mr Hog 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), his declaration included a statement that he was instructed under a conditional fee arrangement.

7. Within his written statement, Mr Hogg declared 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.

8. Mr Muqbil, on behalf of the respondent stated he had not inspected the appeal property for the purposes of this appeal. However, he had extensive knowledge of writing and valuation practices. Therefore, he was appearing as both advocate and expert witness.

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

Background

12. The appeal property was constructed circa 2005. It was a warehouse and premises, with a total area of 1,144.10 m² with 6.1 m² height eaves. The appeal property was situated within an industrial park located at Halesowen and is owned on a freehold basis by the appellant.

13. The disputed issue was the main space rate to be applied to the appeal property's assessment. Within its current assessment, the adopted unadjusted rate of £46 per m² had been applied by the VO to arrive at an assessment of £54,000 RV.

14. Originally, Mr Hogg, on behalf of the appellant had proposed a revised unadjusted rate of £38 per m² where the assessment of the appeal property would be revised at £45,000 RV.

However, he had submitted a further revised assessment using an unadjusted rate of £36 per m², which would result in a revised assessment of £42,500 RV.

Preliminary issue

15. Mr Muqbil stated that there was a preliminary issue to be dealt with. He stated that when the appeal was submitted, Mr Hogg had changed his proposed revised valuation from £45,000 to £42,500. He had considered that the original request for a reduction in the adopted unadjusted rate of £38 per m² was too high and therefore, he had requested a new proposed unadjusted rate of £36 per m² based on evidence from similar comparable properties.

16. Mr Muqbil stated that this had not been discussed during the Challenge stage. The panel noted that the appeal had been received by the Valuation Tribunal on 22 May 2024. The submission by Mr Hogg had detailed his proposed revised RV of £42,500 within the evidence bundle based on the comparable properties he had already provided. The original revised RV of £45,000 was not mentioned within Mr Hoggs submission. The panel held that if the Valuation Officer had an objection to the revised RV detailed by Mr Hogg within his submission, the objection should have been raised once the appeal had been either acknowledged as received by the Valuation Tribunal or when it had been listed to this hearing. The panel also noted that the evidence had remained the same, and comments made by the Valuation Officer during the Challenge stage. It was the proposed RV that had been revised. Therefore, the panel allowed the revised RV from Mr Hogg to be considered.

Relevant Law

17. 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;
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> (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.

18. 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). This common date was used to ensure that every property was treated in a consistent way.

19. The appeal property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

20. The actual date of valuation is 1 April 2015, this being the AVD. As also noted above matters that affect the physical state or enjoyment of the property (termed hereditament) or the locality were to be taken as at 1 April 2017, the material day for this appeal. When assessing the RV of any hereditament, rating law also requires that it must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both its physical nature and mode or category of use.

Discussion

21. 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.

22. In this case, the appeal property was freehold. Therefore, there was no rental evidence with regards to the appeal property. *Lotus & Delta* also required consideration to be given to the rents of similar properties to confirm or otherwise the level of value indicated by the actual rent of the subject. Mr Muqbil provided rental evidence of comparable properties situated within Halesowen. These properties were located in Hereward Rise and Coomb Wood Way. The panel noted that Unit 3C, Coombs Wood Way had a rent of £52,500, which had commenced on 28 February 2015. However, the lease had been considered to be between connected parties. Therefore, the panel placed less weight onto the details provided.

23. However, the panel also noted that Unit 12, Hereward Rise had a rent of £75,000 which had commenced on 1 September 2015 and had been analysed at £48.05 per m², this was for a similar sized unit with a total area of 1,495.70 m². Its assessment was based on a rate of £46 per m². The panel was informed that Unit 12 was superior to the appeal property with 8m eaves heights versus 6.1 m eaves height for the appeal property.

24. The rent of £29,750 for Unit 4DB, Coombs Wood Way had been set in April 2014, one year prior to the AVD. This property was much smaller in size with a total area of 607.60 m². The panel was informed that the lease for this property was a connected parties lease. Therefore, the panel placed less weight on to the details of this lease.

25. The rest of the rents for the other comparable properties had been set after November 2016 and therefore circa18 months post AVD onwards. These rents related to properties with total areas of between 654.20 m² and 5,302.90 m². The rents had analysed to between £50.52 per m² and £74.26 per m², with assessments being based on rates of between £44 per m² and £50 per m² dependant on the size of the unit.

26. The panel found that some of the comparable properties provided by Mr Muqbil were either too small; too large or the rents not close enough to the AVD of 1 April 2015 to have significant weight placed upon them for consideration. However, the panel did pay particular attention to the property of Unit 12, Hereward Rise, which was similar in size and the rent was circa five months post AVD. It was also situated within the local vicinity of the appeal property. The panel also noted that this comparable property was within the same scheme as

the appeal property. However, due to this property being superior in design and having the benefit of a higher eaves height, the panel placed weight on to the details as it saw fit.

27. Mr Muqbil referred the panel to comparable properties located at Coombs Wood Way; Hereward Rise and Steel Park Road. These properties had been described as ‘Post office sorting centre and premises’; ‘Workshop and premises’; ‘Factory and premises’ and ‘Warehouse and premises’. The areas for these properties ranged between 1,036.42 m² and 1,647.90 m². The adopted rate for these properties had been £46 per m² or £46.31 per m². Mr Muqbil stated the details of these comparable properties supported the current unadjusted rate assigned to the appeal property of £46 per m². He, therefore, requested that the panel dismiss the appeal.

28. Mr Hogg informed the panel that he considered that the valuation of the appeal property should align with the rents of comparable properties, such as those at Acorn Park, which were similar in size, age and location. The panel noted that the comparable properties at Acorn Park were Unit 11 and Unit 12. Unit 11 was smaller in size than the appeal property with an area of 480 m² (ITMS 552.50 m²). The rent had been set at £27,300 with an effective date of 1 May 2015. The unadjusted rate applied to this comparable property was £50 per m². As Unit 11 was much smaller in size, the panel placed less weight onto the details provided.

29. The panel noted that Unit 12 was larger with an area of 913 m² (ITMS 015.32 m²). There had been a new lease on this property which had commenced on 3 September 2014 with a rent of £50,000 per annum. The unadjusted rate applied had originally been £44 per m² but had been reduced to £36 per m². The lease for Unit 12 was a new set circa seven months prior to the AVD of 1 April 2105. This property was similar in the fact that it had an eaves height of 6 m, which was very comparable to the 6.1 m eaves height of the appeal property. The panel noted that these two properties were in difference schemes than the appeal property. Mr Muqbil informed the panel that certain properties in different schemes may not be suitable for comparison. Mr Hogg argued that his justification of using these properties was based on physical similarities and proximity to the appeal property.

30. Mr Hogg referred the panel to agreements that had been made with regard to three comparable properties of 130 Stourbridge Road; Unit 12, Acorn Park (detailed in paragraph 30) and Unit 2, Brook Park where the unadjusted rate had been agreed at £36 per m² in March and June 2020. The panel noted that 130 Stourbridge Road and Unit 2, Brook Park were larger in size than the appeal property with areas of 2,789.60 m² and 2,934.60 m² respectively. Mr Muqbil argued that the comparable properties were within different schemes and that the agreement to reduce the value of 130 Stourbridge Road was reached following the reduction in value applied to Unit 12, Acorn Park. He also stated that these properties were not similar in size, so therefore not comparable.

31. The panel placed weight on the rental details of Unit 12, Hereward Rise, a comparable property provided by Mr Muqbil. This property had a rent of £75,000 which had commenced on 1 September 2015 and had been analysed at £48.05 per m². The panel noted that this property was similar in size and its assessment was based on a rate of £46 per m². However, as the panel had been informed that Unit 12, Hereward Rise was superior to the appeal property and had a higher eaves height, the panel held that the base rate for the appeal property should not be as high as Unit 12, Hereward Rise.

32. The panel was convinced having regard to the settlements of Unit 12 Acorn Park; 130 Stourbridge Road and Unit 2, Brook Park, even though significantly different in size to the appeal property, that a reduction in the base rate for the appeal property was warranted. These properties were situated within the local vicinity; they had similar eaves heights at 6 m² and were located further away from the motorway access roads like the appeal property. However, the panel did not consider the base rate for the appeal property should be reduced to the revised unadjusted rate requested by Mr Hogg of £36 per m². The panel held a revised unadjusted rate of £40 should be applied to the appeal property.

Disposal

33. In view of the above findings and conclusions, the Tribunal panel found that the current base rate of £46 per m² for the appeal property was excessive and it would not be unreasonable to revise the unadjusted rate of the appeal property's assessment to £40 per m²,

34. As there was no evidence to show the relativities applied by Muqbil were incorrect, the panel considered they should apply in its revised assessment, as follows:

Valuation

UAR	£40.00

Line	Floor	Description	Area (m2)	Relativity	£/m2	Value
1	Ground	Warehouse	939.70	0.975	39.00	£36,648
2	Ground	Office	93.90	1.320	52.80	£4,958
3	First	Office	93.90	1.320	52.80	£4,958
4	Ground	Office	16.60	1.100	44.00	£730
		Total	1144.10		Total	£47,294
					Say RV	£47,250

35. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, as amended, the Valuation Officer is ordered to alter the rating list within two weeks of the date of the order to show Unit G3, Steel Park Road, Halesowen B62 8HD at £47,250 RV with effect from 1 April 2017.

Date issued to parties: 24 April 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.