VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; Local Government Finance Act 1988; Warehouse and premises; End allowance, Access; Lotus and Delta v Culverwell (VO) [1976] RA 141; Rental evidence; Specialeyes PLC v Felgate (VO) [1994]; Comparable assessments; Appeal dismissed.

APPEAL NUMBERS:CHG101103307

RE:	1 – 4 Millenium Court, Enterprise Way, Vale Park, Evesham, Worcestershire WR11 1GS

BETWEEN:	Online Home Retail Limited	Appellant
	and	
	The Valuation Officer	Respondent
SITTING ON:	1 April 2025 (Remote Hearing number 1)	
BEFORE:	Mr Philip Blythe-Bartram	Senior Member
	Professor Iyiola Solanke	
CLERK:	Mr Duncan Adamson IRRV (Hons)	
APPEARANCES:	Mr Kit Rabette	of Rabettes Ltd for the appellant
	Ms Caroline Salter	for the respondent

Summary of decision

1. Appeal dismissed. The panel confirmed the Rateable Value (RV) of the appeal property as £123,000 with effect from 1 April 2017.

Introduction

2. This 2017 rating list appeal had been brought in respect of the following: the appellant was the non-domestic ratepayer of the appeal property 1 – 4 Millenium Court, Enterprise Way, Vale Park, Evesham, Worcestershire WR11 1GS.

3. The property had been entered in the 2017 rating list as Warehouse and premises based on a rate of £48.52/m^2 giving an RV of £123,000 with effect from 1 April 2017.

4. A challenge proposal was submitted by the appellant's representative on 2 August 2023 to reduce the base rate to £35.00/m^2 Total Significant Area (TSA)

with an end allowance of 7.5% for layout thereby reducing the RV to £82,000 with effect from 1 April 2017.

5. The valuation officer (VO) issued a challenge decision notice on 6 June 2024 which stated that, in her opinion, the proposal was not well-founded and disagreed with the proposed alteration of the list. She considered that the entry was reasonable based on the evidence and information available.

6. The appeal property was a purpose-built and extended industrial unit of concrete block / brick with PPM upper wall and roof. The total area was 2,576.35m^2 TSA and In Terms of Main Space (ITMS) was 2,540.97m^2. Units 1 and 2 were constructed in 2000 as part of a larger hereditament at Evesham Technology Ltd and in 2004 became separately occupied.

7. The units were reconfigured with unit 2 being extended in June 2005 and 1 September 2005 before being merged with Unit 1 with effect from 21 December 2008 creating the current hereditament 1 - 4 Millenium Court.

8. The appellant was represented by Mr Kit Rabette who appeared 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 conditional fee arrangement. 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. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

12. The issue in dispute was whether the base rate should be reduced to £35.00/m^2 and whether an end allowance of 7.5% for layout should be given.

Evidence and submissions

13. The bundle comprised all of the documents exchanged between the parties as part of the challenge process including the appellant's challenge submission, initial response to the challenge and the VO's challenge case decision notice.

14. The appellant's representative stated that the property was constructed with three internal dividing walls that were originally the party walls between four units

occupied by four tenants, the whole property was later occupied by a single tenant. The middle internal wall had been removed and there was an opening in each of the two remaining internal walls spanning approximately 5.5 metres in width. The depth of the property was approximately 30 metres.

15. The property was held on a four year lease from 8 October 2013 and then on a ten year lease from 8 October 2017, however, as the rents were agreed 18 and 30 months from the valuation date he considered that they were too far removed and therefore lent them no weight in the valuation of the appeal property. He referred to the case of *Specialeyes PLC v Felgate (VO)* [1994] in support of this argument.

16. He then referred to the comparable properties submitted by the VO.

17. In respect of Unit 420, Bramley Drive he stated that the Form of Return (FOR) showed that the landlord was liable for the full repairing and insurance (FRI) of the property. He found this to be highly unusual and stated that it could not be relied upon. He therefore gave no weight to this evidence.

18. In respect of EM Coating Services on Enterprise Way he stated that the rental figure had been taken from a Stamp Duty Return Form and was therefore of little value.

19. In summary, he contended that the three appeal property rents and two comparables were of no value in assessing the RV of the appeal property.

20. He then referred to the case of *Futures London Ltd v Stratford (VO)* [2005] on how to consider assessment evidence and the tone of the list, that rents do not always produce reliability in property valuations and settlement evidence was also important in respect of the tone. Similarly, he made reference to several pieces of case law supporting his view that assessments not being challenged does not lend weight to the tone of the list.

21. He referred to the settlement evidence provided by the VO but felt that the properties listed were not comparable to the appeal property as they were of a different type, size, specification and many were located in Worcester, a city three times the size of Evesham with direct access to the motorway and generally in a much more superior location.

22. In support of his argument for a lower base rate he had submitted a variety of properties.

23. Units 4 & 5 Great Western Business Park, Worcester were similar in size to the appeal property but were superior in every way. They were currently used by a self-storage company but, in his opinion, if they were to be used as a standard industrial unit they would be valued at £40/m^2, a value much less than that used for the appeal property.

24. Sites 2b &3-4, Orleans Close, Evesham were valued at £25/m^2 which, if adjusted for size and age to the appeal property, would be relevant evidence for a lower rate for the appeal property. Similarly, R Sinclair Transport Ltd, Evesham was a more modern property but was valued less than the appeal property.

25. In conclusion, the appellant's representative stated that he had presented evidence which, when weighted and adjusted, supported a rate of £35/m^2 for the appeal property.

26. In respect of an end allowance, he stated that the appeal property suffered from severe fragmentation issues caused by the internal walls and structural columns that divided the bays of the warehouse. This should be reflected by a 7.5% end allowance in line with other comparable warehouses with a number of adjacent units and gave several examples.

27. Both Unit 89, Blackpole Trading Estate West, Worcester, a warehouse with offices, and Unit L, Cosgrove House, Worcester, a warehouse arranged across two bays had a 10% end allowance and he had assumed they must have had an internal dividing wall.

28. Hadley Industries, Gaitskill Way, Smethwick, also with a 10% end allowance, comprised of seven warehouse bays and had a series of solid walls and structural columns that divided the bays with no interconnectivity between bays 4 and 5. This property suffered more severe layout issues but supported an end allowance of a lower value for the appeal property.

29. Bay 10 – 11, Alfred Street, Smethwick was a two bay industrial unit separated by an internal wall with an opening and a 5% end allowance had been given for its layout. This property suffered lesser layout issues and therefore supported an allowance for a higher value for the appeal property.

30. Astra Engineering Products Ltd, Birmingham had a 12.5% end allowance for layout and he had assumed that there may be some internal columns or walls interrupting free passage between all the units. There were five and he found that it appeared that two of them were accessed externally.

31. He had submitted another three properties with a variety of end allowances contending that the appeal property should be assessed with a 7.5% end allowance. Further, he had also included previous valuation tribunal case decisions, CHG100798521 in respect of an end allowance allowed for Fothergill Engineered Fabrics Limited and CHG100059004 and CHG100064113 in respect of Olympus Distribution.

32. For these reasons, he argued that the rate should be reduced to £35/m^2 with an end allowance of 7.5% to give an RV of £82,000.

33. The VO's representative stated that the appeal property was valued under scheme 393101 applicable to industrial premises in certain areas of Pershore and Evesham built from 1990 onwards. The values ranged from £42.50/m^2 to £60/m^2 and the appeal property fell into a size band area with a rate of £48.52/m^2 reduced to £47.31/m^2 due to a lack of heating.

34. She stated that the starting point for valuation was the rent on the appeal property and referred to the 8 October 2013 rent that analysed at £77.14/m^2 and the renewed lease from 8 October 2017 that analysed at £79.50/m^2. She had not found any evidence on the FOR of the rents being agreed between connected parties and therefore felt that both rents were reliable evidence. They were either side of the valuation date, analysed significantly above the tone and also

indicated an increase in the market for this type of property in this location between 2013 and 2017. She was also aware of the *Specialeyes* case but stated that the point of the case was not to simply dismiss such rental evidence but to apply weight where appropriate.

35. In respect of Unit 420 she stated that the FOR did state that the FRI was the responsibility of the landlord and she had therefore made an adjustment to the rent to £107,043 which had analysed to £47.60/m^2 and so supported the current base rate.

36. In respect of EM Coating Services she acknowledged that it was a Stamp Duty Return Form but was still useful evidence but should be given less weight.

37. In her opinion, she had considered the basket of rental evidence and felt that £48.52/m^2 for the appeal property was reasonable and no evidence had been presented for a lower base rate.

38. She then referred to the valuations of similar properties and submitted 12 properties of assessment evidence within the same valuation scheme. In her opinion, unchallenged assessments carried weight and she felt that these properties supported the current base rate valuation of the appeal property.

39. Further, there were 185 assessments in the valuation scheme of the appeal property of which only 5 had been challenged which showed that the tone under this scheme had been accepted as not unreasonable.

40. In her opinion, she had assessed the valuation of the appeal property with regard to tone, rental values and settlement evidence.

41. In respect of the end allowance, she stated that the properties submitted by the appellant's representative were not directly comparable to the appeal property as they were valued under a different scheme and some distance from it. End allowances were given for properties outside of the norm based on the properties used to set the tone. Further, as the appeal property rents analysed considerably higher than the tone, no allowance was applicable.

42. For these reasons, she was not of the opinion that the rate should be reduced or that an end allowance was warranted.

Decision and reasons

43. The panel was aware that 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. The material day (the date by which physical factors have to be taken into account) in respect of this appeal was 1 April 2017.

44. The panel noted that both parties had referred to the leading case law of *Lotus and Delta v Culverwell (VO)* [1976] RA 141 which sets out the manner by which a property should be valued.

‘(1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

45. The panel found that the rental agreements on the appeal property should not be dismissed and carried relevant weight, there was no evidence of agreements between connected parties. The rents in 2013 and 2017 were 18 months prior and 30 months after the AVD and, as such, were not ideal evidence but the panel found that they analysed considerably higher than the base rate on the appeal property and were of significance.

46. Similarly, the panel noted the rent on EM Coating Services that analysed at £78.41/m^2. The panel found that some weight should be given to this evidence but, as it came from a Stamp Duty return form it had less weight that the rents on the appeal property. The panel also noted that the analysed rent on Unit 420, Bramley Drive had been adjusted by the VO's representative to account for the FRI arrangements and at £47.60/m^2 was similar to the appeal property.

47. The panel then referred to the schedule of comparable property evidence and found that the 12 properties submitted supported the rate for the appeal property. Further, that of all the properties in the valuation scheme, only 5 had actually been challenged and this also supported the contention that the rates had been accepted.

48. The panel noted both parties comments in respect of Sites 2B and 3-4 Orleans Close and found that these were larger and older properties and although valued in the same scheme as the appeal property were not very useful for tone value as there was an element of quantum in the assessment. The panel found that they did not support a reduction in the appeal property rate.

49. The panel noted that the appellant's representative had not supplied any rental evidence whereas the VO's representative had, further, that she had also included other comparable properties, settlements and the fact that there had been a lack of challenges. The panel found that this gave a better overall picture of the valuation of the rate for the appeal property.

50. In respect of an end allowance, the panel found that some of the evidence supplied by the appellant's representative was not factual, assumptions had been made that as a property consisted of adjacent units and an end allowance had been given the same kind of disruption must be being caused to the appeal property. The panel found that the openings in the internal walls of 5.5 metres were not insubstantial and whilst there may be some disruption, not enough evidence had been produced from comparable properties to show that an end allowance was appropriate.

51. The panel found that the sum of the evidence submitted by the VO's representative was more consistent that the appellant's representatives particularly in respect of the twelve comparable properties submitted.

52. In cases such as this the onus is on the appellant to provide sufficient evidence to support his case that the valuation of the appeal property was unreasonable, however, the panel found that such evidence had not been provided.

53. The appeal was therefore dismissed.

Date issued to parties: 29 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.