VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic 2017 Rating Appeal: Local Government Finance Act 1988; Accuracy of the RV in the Rating List; Retail Warehouse and Premises; Comparable evidence; Main space price Appeal allowed in part.

APPEAL NUMBER:	CHG101106143	
RE:	Maxwells DIY, Shotton Road, Peterlee, Co. Durham SR8 2TG (the “subject property”)	
BETWEEN:	Maxwells (Sunderland) Ltd	Appellant
	and	
	Ms A Hitching (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Wednesday 28 May 2025	
BEFORE:	Mr W Read, Senior Member	
CLERK:	Mrs S D Morgan	
APPEARANCES:	Mr J Bell – Appellant’s representative Mr A Crawford – Valuation Officer’s representative	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. I confirmed a revised rateable value (RV) of £91,000 with effect from 1 April 2017.

Introduction

3. This is a 2017 rating list appeal. Maxwells DIY, Shotton Road, Peterlee, Co. Durham SR8 2TG (the subject property) had been entered into the 2017 rating list as ‘retail warehouse and premises’ at a RV of £100,000 with effect from 1 April 2017.

4. The challenge proposal was submitted by Bell and Bell Rating Surveyors and was received by the Valuation Officer on 6 August 2023. It had been made on the grounds that proposer disputes the RV in the Rating List. The Valuation Officer issued a challenge case decision notice 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.

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. The appeal was lodged by the appellant's representative on behalf of the appellant.

6. Mr Bell appeared on behalf of the appellant as 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 Bell explained that he was instructed on a fixed fee basis and he declared that he understood and accepted his duty 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 the evidence supported the client's case.

7. I accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).

8. Mr Crawford appeared on behalf of the Valuation Officer acting as advocate and expert witness.

9. Under Tribunal Business Arrangements, I could hear this appeal alone, as the other member selected to attend this hearing had personal issues which could not be avoided on the day and was therefore unable to participate in the hearing.

10. The hearing was held remotely via Microsoft Teams.

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

Background

12. The evidence bundles before the panel comprised of the evidence disclosed and exchanged during the challenge. It included comparable assessments, location plans, photographs of the subject property and comparable properties and the parties' skeleton arguments.

13. The subject property was built in 2006 and was described as a retail warehouse with metal cladding to the external walls and a slightly pitched metal roof. It has an actual area of 2,384.20m^2, ITMS it is 1820.96m^2 and comprises of ground floor sales and first floor offices.

14. The unadjusted main space price of £55/m^2 was in dispute. The appellant's representative contended for a main space price of £48/m^2 with a proposed revised figure of £87,000 RV with effect from 1 April 2017. The Valuation Officer's representative believed the existing assessment was fair and reasonable.

15. The appellant's representative believed that the percentage differential of adopted prices between the 2010 and 2017 lists should be the highest weighted evidence.

Relevant Law

Lotus & Delta Ltd v Culverwell & Leicester City Council [1976] RA 141

Lamb v Minards (VO) LT [1974] RA 153

Barnard and Barnard v Walker (VO) [1975] RA 383

16. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.6 to the Local Government Finance Act 1988, which provides:

"(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.

Discussion

17. The subject hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

18. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

19. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day was 1 April 2017.

20. In the case under consideration, I had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976]

RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

21. I noted that the subject property in this case was freehold, and that no rental evidence had been exchanged between the parties, therefore I examined the comparable property evidence, and the arguments put forward by the parties.

22. The appellant's representative referred to four comparable properties where the price per m^2 applied in the 2010 Rating List was more than that applied to the 2017 list. These properties were as follows.

Brunswick Shoe Warehouse, Essington Way, Peterlee. Valued on 2010 list at £100/m^2 and at £80/m^2 on the 2017 list.

Poundstretcher (former) Essington Way Peterlee. Valued on 2010 list at £100/m^2 and £80/m^2 on the 2017 list.

Unit 4 Highlight Retail Park, Marina Way, Hartlepool. Valued on 2010 list at £94/m^2 and £70/m^2 on the 2017 list.

Units 1A, 2, 3A and 3B Teesbay Retail Park, Brenda Road, Hartlepool. Valued on 2010 list at £75/m^2 and £60/m^2 on the 2017 list.

23. The appellant's representative contended that location was an important factor in this appeal. He referred to his location plans with the subject property being located in an industrial area in comparison with his comparable properties in Essington Way close to the shopping centre. He also suggested that the evidence from previous agreements in terms of differentials should be consistently applied for the 2017 Rating List. On the 2017 list and in previous lists it was agreed that Poundstretcher should be of a higher value in terms of price per m^2 than the subject property. He contended that the differential in values which had persisted in previous lists should continue for the 2017 list with the value on the subject property being 60% of the value applicable to the Poundstretcher property. The appellant's representative also stated that the subject property had a restrictive planning use to DIY/bulky goods as opposed to those comparable properties in Essington Way which had an A1 user clause in terms of planning making the subject property less valuable than those with an open user clause where any type of retail was permissible. In addition, the subject property was around three times larger than the Poundstretcher property.

24. As further support to his case, the appellant's representative referred to the judgment of *Lamb v Minards* in that "a presumption should be made in favour of the relativities between properties in previous Rating Lists in the absence of fresh evidence to the contrary" and In *Barnard and Barnard v Walker* it states that differentials and allowances in rating one list are correct and should continue to a successor list, save of evidence capable of rebutting the presumption". The appellant's representative contended that the Valuation Officer's representative had not provided any evidence to suggest that the previous relativities should not continue. Applying the same differentials between Poundstretcher and the subject

property would give a revised main space value of £48/m^2 for the subject property. He therefore sought a proposed RV of £87,000 with effect from 1 April 2017.

25. The Valuation Officer's representative referred to the following retail warehouses as comparable properties.

Brunswick Shoe Warehouse, Essington Way, Peterlee. The property was built in 1996 and measures 323.10m^2. It is 1.42 miles away from the subject property. Adopted 2017 value of £80/m^2.

Unit 4 Peterlee Retail Park, Essington Way, Peterlee. This was built in 2021 and measures 464.00m^2. It is 1.6 miles away from the subject property. Adopted 2017 value of £150/m^2.

Poundstretcher (former) Essington Way Peterlee. This property was built in 1997 and measures 786.60m^2. It is 1.42 miles away from the subject property. Adopted 2017 value of £80/m^2.

Unit 5 Peterlee Retail Park, Essington Way, Peterlee. This was built in 2021 and measures 2,788m^2. It is 1.6 miles away from the subject property. Adopted 2017 value of £100/m^2.

26. Brunswick Shoe Warehouse and Poundstretcher were approximately 10 years older than the subject property and were valued at a higher adopted rate of £80/m^2 which the Valuation Officer's representative felt supported the £55/m^2 for the subject property when accounting for size differences and the economies of scale. He also confirmed that the subject property was inspected on 13 May 2025.

27. In relation to the percentage differences between the 2010 and 2017 Rating Lists, the Valuation Officer's representative explained how each list was "separate and distinct". At each Revaluation, a property was valued a fresh to the pertinent evidence available at the new Valuation Date and the analysis of those rents at around that time. It was not dependent on previous valuations. He added that there was no reference to list differentials in *Lotus and Delta.*

28. In relation to the planning use, the Valuation Officer's representative stated that he had reviewed the local authority's planning portal and there were no applications relating to the subject property or any planning constraints. With reference to *Lamb v Minard* he would attach higher weight to the fresh evidence of the 2017 comparable assessments which were located within 1.5 miles and were consistently valued at significantly higher adopted values despite not being comparable in terms of location and size. The Valuation Officer's representative therefore believed that the current RV of £100,000 was fair and reasonable and he sought a dismissal of this appeal.

29. Having examined the evidence presented by the parties, I found that although accepting that each Revaluation was separate and distinct there was some merit in the differentials approach used by the appellant's representative over the previous lists. This was also supported by his reference to *Lamb v Minards* and *Barnard and Barnard v Walker*. I therefore felt that when making comparisons with the likes of Poundstretcher and the Brunswick Shoe

Warehouse which had shopping centre locations and were somewhat smaller than the subject property, that £50/m^2 appeared reasonable for the subject property.

30. The price adopted to the canopy area of either 20% or 10% relativity had not been raised or discussed in any depth by the parties prior to the hearing. I therefore did not consider it appropriate to entertain it at this stage of the proceedings. The relativity for the canopy area was therefore kept at 20%.

31. In view of the foregoing and applying a stand back and look approach, I found that £50/m^2 appeared fair and reasonable for the subject property and determined the following.

Floor	Description	Area	£ per m^2	Value
Ground	Ground Floor Sales	1645.60	£50.00	£82,280
First	Office	74.22	£50.00	£3,711
Ground	Canopy	29.90	£10.00	£299
Ground	Outdoor display area	634.48	£7.50	£4,759
				£91,049
		SAY		£91,000

32. I was satisfied that the subject property should be reduced to £91,000 RV with effect from 1 April 2017. Consequently, the appeal was allowed in part.

Disposal

33. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the Rating List to £91,000 RV with effect from 1 April 2017.

34. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

35. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended)) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date issued to parties: 27 June 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.

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