VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; warehouse and premises; correct main space rate to be applied; appeal allowed in part.

APPEAL NUMBER:	CHG101110733	
RE:	Unit 4, Heathrow Logistics Park, Bedfont Road, Feltham TW14 8EE (the "subject property")	
BETWEEN:	James Cargo Services Limited	Appellant
	and	
	Lucy Dyer MRICS (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Monday 16 December 2024	
BEFORE:	Mr N De Freitas, Presiding Senior Member Mr PA Jennings, Senior Member	
CLERK:	Mr R Patel IRRV(Hons)	
APPEARANCES:	Mr A Hair of Altus Group (on behalf of the appellant as both advocate and expert witness) Mr Y Napal (on behalf of the respondent as both advocate and expert witness)	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal Panel determined the appeal property's existing assessment of £342,500 Rateable Value (RV) was unreasonable and reduced it to £327,500 RV, with effect from 28 September 2017.

Introduction

3. This appeal had been brought in respect of the following: Unit 4, Heathrow Logistics Park, Bedfont Road, Feltham TW14 8EE, which was entered in the 2017 Rating List as warehouse and premises, at £397,500 RV, effective from 28 September 2017.

4. The appellant's challenge to the Valuation Officer (VO) was made on 14 August 2023. The appeal to this Tribunal was made on 23 July 2024, following the VO's decision notice of 16 July 2024, in respect of the appeal property (hereditament). The VO's decision notice reduced the assessment to £342,500 RV, with effect from 28 September 2017. This is a compiled list appeal so the material day is 28 September 2017.

5. The appeal property is a detached two storey warehouse, measuring 3,019m^2, with and eaves height of 8 metres. It was built in 2016 and is stated to be comprised of a modern steel portal frame with lined walls, first floor grade air conditioned offices with raised floors. It also has associated car parking spaces and a secured access yard. The estate on which the subject property is located is secured with security barrier access to all vehicles and steel fencing. It is situated on Heathrow Logistics Park, a development consisting of four distribution warehouses, which is located off Bedfont Road and stated to form a peripheral part of the wider established Heathrow logistics market.

6. Mr Hair was appearing on behalf of the appellant as advocate and expert witness. Therefore, it was important to ascertain if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7. Mr Hair confirmed that he was not representing the appellant at the hearing on a contingency fee basis. He also 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 supports his client's case.

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

Background

9. The appellant sought a reduction in the RV of the subject property to £307,500, on the basis that the current unadjusted main space rate (UAR) of £110/m^2 be adjusted to £100/m^2. Mr Napal defended the existing rate of £110/m^2.

Relevant Law

10. The appeal 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 let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015, the Antecedent Valuation Date (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 28 September 2017 for this appeal.

Discussion

11. 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. This date was used to ensure that every property was treated in a consistent way.

12. In arriving at its decision, the panel considered whether the current UAR applied to the appeal property's assessment was unreasonable. Mr Hair sought a reduced UAR of £100/m^2 after having regard to the assessments placed on his comparable properties. Whereas Mr Napal supported the existing UAR of £110/m^2.

13. The panel was aware that 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. This case had established six propositions that gave clear guidance to be followed when assessing rateable value. Bearing these six propositions in mind, the panel acknowledged that the rent on the subject property, where available, was considered to be the correct starting point and consideration to how that rent compared to the statutory definition of rateable value. The rents on similar properties were also considered and assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

14. In considering whether the current UAR was reasonable, the panel turned to the rent passing on the subject property. The property entered the 2017 Rating List after the AVD, on 28 September 2017, with the panel noting that the current rent was based on a lease effective from 7 February 2018. This was a new letting for a term of 10 years with a 3 month rent free period, followed by a stepped rent of £250,000 per annum from 7 May 2018 and £500,000 per annum from 7 August 2018. The property was subject to a break option and rent review on 1 May 2023, with the panel informed that the rent review is in negotiation.

15. The respondent stated that the rent analysed to £150.59/m^2. Mr Napal suggested that this was useful evidence and when also taking into account the comparable assessment evidence, the evidence supported a UAR of £110/m^2. Mr Hair stated that little weight should be given to the rent, given the letting date in February 2018, nearly three years after the AVD, with regard instead given to the comparable assessment evidence.

16. Having regard to both parties' submissions, the panel placed little weight on the passing rent on the appeal property. The panel considered that the appeal property's rent in this case was unhelpful. As such, it turned to the tonal comparable evidence presented by both parties.

17. When the panel had questioned Mr Napal on the evidence to justify the current rate of £110/m^2, the panel noted that reference was made to two assessments in support of the current UAR:

    i) Unit 1, Pier Road Industrial Estate, which had been valued with a UAR of £100/m^2;
    ii) Cp2, Central Park Estate, which had been valued with a UAR of £110/m^2.

18. The respondent, with regard to Unit 1, Pier Road Industrial Estate commented that this was a unit built in 2015 with an eaves height of 4.88 metres, with the UAR of £100/m^2 agreed, based on tone, at challenge stage when Unit 2, Pier Road Industrial Estate was appealed. Being of similar size and in a similar location to the subject and comparable properties referred to, it was stated the £110/m^2 UAR for the subject property, benefitting from a superior eaves height

of 8 metres, was not unreasonable. The appellant stated that Unit 1 was a refurbished 2015 unit rather than being built in 2015. Mr Hair stated that Altus acted on behalf of the ratepayer in respect of the identical and neighbouring property at Unit 2, with regard to the 2017 Rating List entry. He stated that it was agreed to value Unit 2 with a £70.00/m^2 UAR and that Unit 2 was identical to Unit 1, adding he was unsure why Unit 1 at £100/m^2 had not been challenged.

19. Cp2, Central Park Estate, built in 2010, and refurbished in 2013, whilst at least 60% larger in size than the subject property, had the same 8 metre eaves height, with its 2017 Rating List entry calculated on a UAR of £110/m^2. Mr Napal stated this supported the £110/m^2 UAR for the subject property. The appellant stated that he was also unsure why the RV for this property had not been appealed.

20. The appellant had provided evidence in respect of seven properties which Mr Hair regarded as comparable, with UAR values between £90/m^2 and £100/m^2. Their sizes, ages and eaves height varied, however taking these factors into account, the three most comparable properties were:
    i) Skynet House, 18-21 Pulborough Way, built in 2014, with an area of 4,322m^2 and an eaves height of 9 metres
    ii) Unit 2, Space Waye, built in 2014, with an area of 2,406m^2 and an eaves height of 10 metres
    iii) 9 Space Waye Park, Space Waye, built in 2006, with an area of 3,280m^2 and an eaves height of 8.6 metres

21. The UAR's of i) and ii) in the above paragraph were £100/m^2, with the UAR of 9 Space Waye Park, Space Waye, at £92.50/m^2. The respondent stated that Skynet House, being further away and larger than the subject property should be afforded less weight as a comparable property. However, of these three properties, the panel noted that Skynet House was valued in Scheme 432562, the same scheme as the subject property. The appellant stated that Skynet House had recently been determined at Valuation Tribunal at a UAR of £100/m^2, being of a similar age and quality as the subject property. The panel also noted the scheme for Unit 2. Space Waye also related to post 2010 industrial units within the locality, whereas 9 Space Waye was in a scheme applicable to older industrial properties within the locality.

22. The respondent added that Unit 2, Space Waye was smaller, and although it had a lower eaves height, than the subject property, it should not have the same UAR. Furthermore, whilst 9 Space Waye, was similar in size to the subject property, it also had a lower eaves height, with its UAR of £92.50/m2 being based on it being older and valued in a different scheme for properties of the appropriate age. The panel noted the appellant's comments that the respondent had incorrectly detailed the eaves height of these two properties, providing details of what they had confirmed as the correct heights, as stated in paragraph 20 above.

23. The panel preferred the comparable assessments presented by Mr Hair, in particular Skynet House, 18-21 Pulborough Way and Unit 2, Space Waye, regarding them to be more compelling when taking into account similarities to the subject property in terms of age, size and eaves height, as well as taking into consideration the scheme in which the comparable properties were allotted. The panel attached less weight to the comparable properties provided by the respondent, with Cp2, Central Park Estate considered to be significantly larger and older than the subject property and these two comparable properties. Turning to Unit 1, Pier Road Industrial Estate, the panel also attached less weight to this comparable property. This property was stated to be identical to the neighbouring property, Unit 2, which had a UAR of £70/m^2. The panel found that the respondent's comments to support the £100/m^2 UAR of Unit 1, lacked justification.

24. Notwithstanding, whilst the panel was of the opinion that the current UAR of £110/m^2 applied to the appeal property was excessive. it was not convinced that the rate should be reduced as low as £100/m^2 as contended by Mr Hair. When assessing the subject and comparable properties, the panel considered the subject property to be a more modern and better property overall, with better facilities, access and security features. The panel determined that a UAR of £105/m^2 more fairly reflected the appeal property's attributes.

Disposal

25. In view of the above findings and conclusions, the panel was satisfied that the current assessment was unreasonable. The panel determined that an assessment of £327,500 RV more accurately reflected the appeal property, and the panel calculated a revised valuation, as shown below:

Floor	**Description**	**Area m^2**	**£/m^2**	**Relativity**	**Value (£)**
Ground	Warehouse	2679.00	105.00	0.975	274,263
First	Office	340.00	105.00	1.320	47,124
Additional features of property included in the valuation					
	Surfaced open spaces	25	255		6,375
	Valuation Total				**327,762**
	Say £327,500 Rateable Value, with effect from 28 September 2017				

Order

26. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £327,500 RV, with effect from 28 September 2017, within two weeks of the date of this Order.

27. 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).

Date issued to parties: 15 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.
