VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Lotus & Delta Ltd v Culverwell (LO) and Leicester City Council [1976]; rental evidence; assessments of comparable properties; unadjusted rate in dispute; appeal allowed in part.

APPEAL NUMBER:	CHG101116595, CHG101117055, CHG101116631	
RE:	Units 5,6 and 7 Kellard House, Woolmer Green,SG3 6FP (the "subject property")	
BETWEEN:	Kellard Estates Ltd	Appellant
	and	
	Joanne Moore IRRV (Hons) (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	18 January 2024	
BEFORE:	Ms S Kinsella, Presiding Senior Member Mr MH Smith, Senior Member	
CLERK:	Mrs J Routledge IIRV (tech)	
APPEARANC ES	Mr Brian Rees of Fisher German representing the appellant. Mr Lee Stevens representing the respondent.	

DECISION AND STATEMENT OF REASONS

Correction of error

The VTE may at any time correct any clerical mistake or other accidental slip or omission in a decision, direction, order or any document produced by it, by—

(a) sending notification of the amended decision, direction or order, or a copy of the amended document, to all parties; and

(b) making any necessary amendment to any information published in relation to the decision, direction, order or document.

Decision

1. The appeal is allowed-in-part.

2. The assessments were reduced from an unadjusted rate of £150 per square metre (per m^2) to £125 per m^2 with effect from 31 August 2021 as the panel considered this reflected the tone of unadjusted rates applied to the comparable properties in the locality.

Introduction

3. This is a 2017 rating list appeal. The subject properties had entered the 2017 rating list as “offices and premises” at an unadjusted base rate of £170 per m^2 on 31 August 2021. This was adjusted to £161.50 per m^2 for lack of air conditioning and discounted further by 25% for no lift. A notice of alteration was issued on 23 February 2024 to correct the assessments as the subject properties did have air conditioning and a lift resulting in a Rateable Value (RV) of £20,500 on unit 5, £19,000 on unit 6 and £29,750 on unit 7.

4. The challenge proposals were submitted to the Valuation Officer on 25 August 2023. It had been made on the grounds that the RV shown in the rating list was inaccurate. A revised base rate of £95.00 per m^2 was proposed for each unit.

5. The material date was 31 August 2021 when the subject properties entered the list, the effective date of the assessment of £170 per m^2 was 23 May 2022.

6. The Valuation Officer issued a challenge case decision notice on 22 March 2024 which disagreed with the proposed alteration of the list.

7. 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.

8. Mr Rees 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 Rees confirmed that he was instructed under a conditional 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. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

12. The subject properties are located in a small development in Woolmer Green three miles from the village of Knebworth that were completed in 2021. The development was situated to the rear of a large housing estate. With four retail units on the ground floor, the subject properties are on the first and second floor. Unit 5 measures 138.04 m^2, Unit 6 measures 128.21 m^2 and Unit 7 measures 199.90 m^2. Each office has its own separately designated fully finished kitchens, excluding white goods. The offices were fully decorated with raised access floors and carpet tiles throughout.

13. The appellant's representative had argued that the subject properties were in the wrong scheme. The properties had been placed in the Valuation scheme 3121295 that included offices constructed post 2000 in Welwyn Hatfield with base rate values between £155.00 per m^2 to £180.00 per m^2. He considered the more appropriate scheme was 312226 offices in Knebworth with base rate values between £75.00 per m^2 and £95.00 per m^2. He argued the unadjusted rate adopted was excessive based on the rental and agreement evidence of comparable properties and sought a reduction to £95.00 per m^2.

14. The Valuation Officer revised the base rate for the subject properties to £150.00 per m^2 with effect from 23 May 2022 this included car parking spaces reflected in the unit value.

Relevant Law

15. 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 –
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> 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

16. 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.

17. 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 properties 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.

18. The panel was aware from *Lotus v Delta* that the best evidence would be the subject rents when agreed close to the AVD. The panel noted that Unit 5 was rented from 18 August 2023 at £26,950 per annum which devalues to £162.45 per m^2, Unit 6 was rented from 27 April 2023 at £23,350 which devalues to £159.41 per m^2 and Unit 7 was unlet but had an asking rent of £38,500. The panel found these rental agreements were too far removed from the AVD to be of assistance in determining the RV for the subject properties.

19. The panel therefore had regard to comparable properties identified by the parties. In accordance with *Lotus & Delta* rents on similar properties should be taken into account and weight applied to the entire basket of evidence according to its merits.

20. Mr Rees argued that the Valuation Officer had placed the subject properties in the wrong scheme, the other properties in that scheme were in Welwyn Garden City. He considered the most comparable properties were at The Woodyard Knebworth Park which were modern units assessed at £95.00 per m^2.

21. The panel noted that the Valuation Officer had suggested that the properties at The Woodyard were undervalued. The panel was aware that the Valuation Officer cannot impugn the Valuation List and that it was required to consider that the base rate on these properties was correct.

22. The panel also noted the Woodyard properties were completed in 2022 but were of a different character and were much smaller ranging in size between 25 m^2 and 49 m^2. They were also situated further from the village of Knebworth and the access was not as good as the subject properties. The panel found that it could give little weight to these comparable properties as there were few similarities to the subject properties.

23. Mr Rees also drew the panels attention to the 2023 assessments for the subject properties which now had their own scheme. He considered this supported the argument that they had previously been placed in the wrong scheme.

24. The Valuation Officer identified 1 and 2 Millrace as comparable properties, 1 Millrace had a rent review dated 1 January 2015, the rent analysed to £159.13. 2 Millrace had a lease renewal on 1 March 2015, the rent analysed to £156.86. The base rate in the 2017 list was £170.00. Mr Rees advised that these were now in the 2023 list at a base rate of £225.00 which indicated that there was a considerable difference in the value of these assessments compared to the subject properties.

25. The panel noted other properties in the list on London Road Knebworth, the same road as the subject properties, had unadjusted rates of £120 per m^2. This indicated to the panel what rents were being achieved by properties in a similar location to the subject properties at the AVD. Many of these properties were much smaller and similar in size to the Woodyard and demonstrated to the panel that the location of the Woodyard had a detrimental effect on the rents being achieved there.

26. The panel considered the basket of evidence indicated that the subject properties fell between the Woodyard assessments and the Millrace assessments. It considered that the location of the Woodyard was not as good as the subject properties and the sizes of the Woodyard properties were so much smaller than the subject properties that the hypothetical tenant would have less flexibility in the use of these spaces and therefore the rent offered would be lower. The London Road assessments demonstrated that the value of properties in this location was higher.

27. The Millrace properties were individual self-contained ground floor offices and appeared to be in a better location near to the A1 (M). The evidence submitted that these properties have been placed in the 2023 list at £65.00 per m^2 more than the subject properties also indicated that these would achieve higher rental bids than the subject properties.

28. The panel concluded that an unadjusted rate of £125.00 per m^2 was reasonable taking into account that the subject properties were newly constructed to a high specification and were in a similar location to the other London Road properties and provided more space with greater flexibility. The panel was also aware that an adjustment had to be made in the rental analysis to take into account the leases were taken out in 2023, eight years after the

AVD and the rents would have increased during that period. The following assessments was therefore determined:

Unit 5

Line	Floor	Description	Area (m^2)	£ per m^2	Value
1.1	first	office	129.04	125.00	£16,130
1.2	first	kitchen	9.00	118.75	£ 1,068
		Total			£17,198

Rounded to £17,000

Unit 6

Line	Floor	Description	Area (m^2)	£ per m^2	Value
1.1	first	office	119.21	125.00	£14,901
1.2	first	kitchen	9.00	118.75	£ 1068
		Total			£15,969

Rounded to £15,750

Unit 7

Line	Floor	Description	Area (m^2)	£ per m^2	Value
1.1	first	office	181.10	125.00	£22,637
1.2	first	kitchen	18.80	118.75	£ 2,232
		Total			£24,869

Rounded to £24,750

Disposal

29. In view of the above findings the panel concluded that it had been demonstrated that the present base rate of £150.00 was unreasonable and that an unadjusted rate of £125.00 per m^2 reflected the rent that would be offered by the hypothetical tenant at the AVD therefore the appeal was allowed in part.

Order

30. 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 alter the entry in the rating list to £16,500 from 31 August 2021.

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

32. A refund of the paid fees will now be arranged provided there are no reviews of the Tribunal's decision.

Date issued to parties: 20 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.
