VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; Local Government Finance Act 1988; Price per m^2 in dispute; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA141; rental evidence; comparable assessments; Appeal allowed in part.

APPEAL NUMBER: CHG101117434

RE: Normandy Wharf, Dockside Road, Middlesbrough, Cleveland TS3 8AT

BETWEEN: C L Prosser & Co. Ltd — Appellant
And
Amanda Hitchings (Valuation Officer) — Respondent

SITTING ON: 5 November 2024 (Remote Hearing number 1)

BEFORE: Mr Christopher Derrick (Chair)
Mrs Christine Parkes

CLERK: Mr Duncan Adamson IRRV (Hons)

APPEARANCES: Mr Jeff Bell of Bell and Bell, Rating Surveyors for the appellant
Mr Martin Hardman for the respondent

Summary of decision

1. Appeal allowed in part. The Rateable Value (RV) of the appeal property was reduced to £126,000 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 Normandy Wharf, Dockside Road, Middlesbrough, Cleveland TS3 8AT.

3. The property was entered in the 2017 rating list as storage land used as a scrap yard and had three large warehouses and portacabin style offices on site with an RV of £167,000 based on a rate of £3.18/m^2 in respect of the land with effect from 1 April 2017. It was valued within the valuation scheme reference 378284.

4. The challenge proposal was submitted on behalf of C L Prosser & Co Ltd and was received by the Valuation Officer (VO) on 27 August 2023. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was excessive and a revised RV of £107,000 based on a rate of £1.20/m^2 was proposed with effect from 1 April 2017.

5. The VO issued a challenge case decision notice on 8 January 2024 which stated that the rating list entry was unreasonable based on the evidence and information available but disagreed with the entry proposed in the appellant's proposal. The VO reduced the rate to £2/m^2 thereby reducing the RV to £140,000.

6. The appellant disputed the alteration made to the RV by the VO and continued to seek an RV of £107,000 with effect from 1 April 2017.

7. On 24 September the LO's representative emailed the tribunal with a schedule of assessments within the same valuation scheme of 378284. These were previously in the evidence pack but were not particularly legible and the appellant's representative therefore considered this to be new evidence. The panel did not consider this to be new evidence but did adjourn briefly at 11:20am for 10 minutes to allow Mr Bell to review the document.

8. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

9. The issue in dispute is the price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

10. 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.

11. On 4 November the appellant's representative emailed the tribunal and the LO's representative a corrected copy of his valuation of the appeal property and a hand drawn plan of the site. Neither of these documents were new evidence.

12. On 4 November the VO's representative emailed the tribunal and the appellants representative with a slightly revised valuation after agreeing with the appellant that the storge container should be valued at £72 and not £432. This adjustment reduced the RV to £139,931, rounded down to £139,000.

13. Both parties had submitted additional photographs just prior to the case hearing to support their case. These were not new evidence.

14. On behalf of the appellant, Mr Bell stated that the rating assessment should have regard to the value of the appeal property which should reflect its location, quality and layout as well as the tone of the list. Further, that the valuation factors that were previously relevant to the appeal property remained valid. He felt that the

VO had valued the appeal property as land used for storage and premises but it should have been valued as buildings with ancillary land.

15. He stated that the rate for the main Workshop A had been agreed by both parties to be £21.37/m^2 and the value of the mooring £12,500. Workshops A and B, if assessed on the same relativities should be assessed at the rate of £13.89/m^2.

16. The main disagreement was the rate/m^2 for the storage land of 38,650m^2. Although the VO had reduced the rate to £2/m^2, the appellant's representative contended that £1.20/m^2 was more appropriate. He felt that, in adjusting the rate, the VO had made reference to an adjacent assessment in the 2010 rating list for MP Storage and Blending Ltd where £1.50/m^2 had been adopted, the same 2010 rate as the appeal property, but in the 2017 list had used £2.23/m^2. He contended that this should therefore give rise to an adjusted rate for the appeal property of £1.48/m^2 and not £2/m^2.

17. He had been informed by the VO that there were three types of storage land, hard surfaced, rough surfaced and unsurfaced and that each of these may be fenced or unfenced.

18. The appeal property was classed by the VO as rough surfaced, fenced land and Mr Bell made reference to three other properties with the same land description at Magnum Storage, Port Clarence Properties and Trans Store that were valued at £1.20/m^2 submitting copies of their 2017 rating list valuations.

19. He also made reference to properties that had multiple types of land but their rough surfaced, fenced land was also valued at £1.20/m^2. These were at Cleveland, Holding and Barnes Co Ltd, Qualitech Environmental Services, Accredited Processed Metals and Sims Group UK Ltd.

20. He contended that even at £1.20/m^2 the appeal property would be overvalued as it was now of extremely poor quality as it was unsurfaced rough earth. It became a dust bowl in the summer and a quagmire in the winter. It was also only fenced on three sides as there was no fencing on the river frontage. However, he was happy to continue seeking the £1.20/m^2 rate.

21. For these reasons he felt that £1.20/m^2 was appropriate for the appeal property and submitted a revised valuation of £107,000 RV with effect from 1 April 2017.

22. The LO's representative had agreed that the Workshops B and C were significantly older and of inferior quality and therefore decided to adjust their assessment in line with the 2010 rating list, however, he calculated that the relativity was 67.5%, not the 65% as stated by the appellant's representative. Consequently,the 2017 entries should be £14.42 and not £13.89/m^2.

23. He contended that the appellant had not provided any rental evidence in support of his contention that the RV should be reduced, he had only had regard to the 2010 list and the submitted photos.

24. In respect of the method of valuation he had stated that the appeal property was valued as Land used for storage and premises in both the 2010 and 2017 lists under scheme reference 378284. This scheme applies to properties where the value of the land element will generally exceed the value of any buildings.

25. He stated that the appellant's representative's submitted comparable properties were mostly not in the same scheme as the appeal property and should therefore carry little weight. MP Storage and Blending was in the same scheme as the appeal property and he gave this some weight for the appellant's argument as its ratio of land to buildings was 15% and therefore similar to the appeal property's ratio of 9%.

26. In the LO representative's opinion, the property at Sarens, Riverside Park Road was in the same valuation scheme as the appeal property and was comparable in terms of size and land to buildings ratio at 6%. The settled challenge on this property agreed an unadjusted rate of £3.18/m^2 for 30,887m^2 of storage land which he felt supported the rate on the appeal property.

27. In respect of the appellant's representative stating that the quality of the land having deteriorated between 2010 and 2017, he stated that it was valued as rough surfaced, fenced land and had previously applied a relativity of 0.8 for that reason, however, he referred to the photos submitted and felt that there had not been any further deterioration. It was currently assessed on an unadjusted rate of £3.18/m^2 which, after applying the effects of quantum, the 17% allowance and the relativity of 0.8, submitted that it should be valued at a price of £2.00/m^2. This makes the RV £139,000 and maintains the criteria of the scheme where the land value is higher than the buildings.

Decision and reasons

28. The panel referred to the Local Government Finance Act 1988 in respect of the definition of rateable value in paragraph 2(1), Schedule 6 to the Act (as amended). The rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2015 the "antecedent valuation date" (AVD). The material day for this appeal was 1 April 2017.

29. The panel noted that the parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141. However, neither of them had referred to any rental evidence of the appeal property or of any comparable properties, rather, they had submitted evidence of comparable properties that they felt supported their assessment.

30. The appellant's representative had stated that the assessment should have regard to the value of the appeal property and comparable properties in the locality but had also made reference to the 2010 rating list valuation.

31. The panel noted that there had been some minor changes to the assessment which, for the most part, were agreed by both parties.

32. The panel found that there was some confusion over the correct relativities to be applied to the two smaller Workshops B and C. In the 2010 rating list the rate for Workshop A was £20 and for Workshops B and C it was £13, a value 65% less. The rate agreed by both parties for Workshop A in the 2017 rating list was £21.37/m^2 and 65% of this was £13.89/m^2. The panel therefore found that this should be the correct rate for the two smaller workshops.

33. The panel found that the main cause of disagreement was the valuation of the rough surfaced, fenced land of 38,650m^2. The panel noted the parties' comments in respect of its location but found that in respect of the effects of the wharf and the riverside proximity these had already been accounted for in the valuation of £139,000.

34. The panel found that the location of the appeal property was not as good as that of Sarens on Riverside Park Road which was valued at £3.18/m^2 and therefore that this would justify a lower rate. The panel also noted that MP Storage and Blending had been valued as unfenced land when in fact it was fenced and therefore the appellant's representative's comment that a 20% reduction of its rate of £2.23/m^2 should be applied was not correct.

35. However, the panel found that the rate of £2.23/m^2 was appropriate for the appeal property and applied the 17% previously agreed reduction to give a rate of £1.85/m^2.

36. The panel noted the photographs that had been provided and found that the land was of poor quality and that a reduction of the rate was therefore due. The panel found that a further reduction of 10% was appropriate giving a rate of £1.67/m^2. The valuation being:

Description	Area	Area / £m2	Value (£)
Rough Surfaced, Fenced Land	38650	£1.67	£64,546
Sectional offices link	25.49	£12.82	£327
Sectional offices	576.52	£16.03	£9,242
Store	52.5	£21.37	£1,122
Workshop A	854.6	£21.37	£18,263
Workshop B	820.4	£13.89	£11,395
Workshop C	1127.8	£13.89	£15,665
Mooring	50	£250.00	£12,500
Storage Container	1	£72.00	£72
Plant and Machinery			£377
			£133,508
Services amendments		5%	£6,675
			£126,833
		Rounded	£126,000

37. The appeal was therefore part allowed.

Order

38. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in respect of Normandy Wharf, Dockside Road, Middlesbrough, Cleveland TS3 to an RV of £126,000 with effect from 1 April 2017.

39. A refund of the paid fee will now be arranged (Regulation 13E of the Non-Domestic Rating (Alteration of Lists & Appeals) (England) Regulations 2009.

Provided there is no review of the Tribunal's decision the refund will take around six weeks to process.

Date issued to parties: 5 November 2024

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.