VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Warehouse and Premises; Rental evidence; Comparable assessments; Appeal allowed.

APPEAL NUMBER: CHG101140035

RE: LEOS DISTRIBUTION CENTRE, BROADWAY, BARNSLEY S70 6RA (the "subject property")

BETWEEN: INTEGRATED THIRD PARTY LOGISTICS LIMITED (represented by Altus Group) — Appellant

and

Joanne Moore (Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 6 November 2024

BEFORE: Mr OL Roberts, Presiding Senior Member
Mr WJ Read, Senior Member

CLERK: Mrs S Hodgson IRRV(Dip)

APPEARANCES: Mr J Abbott for the appellant
Mr J Harrison for the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal Panel found that the current rateable value(RV) was unreasonable and determined a revised RV of £645,000 with effect from 1 April 2017, based on an unadjusted base rate of £40 per square metre (psm).

Introduction

3. This was a 2017 rating list appeal. The subject property had been entered in the 2017 rating list as “Warehouse and Premises” at an RV of £675,000 with effect from 1 April 2017. This was a compiled list appeal, so the material day was also 1 April 2017.

4. The challenge proposal was submitted by Altus Group on behalf of Integrated Third Party Logistics Limited and was received by the Valuation Officer (VO) on 3 October 2023. It had been made on the grounds that the RV shown in the rating list was wrong and proposed a revised RV of £645,000 for the subject property.

5. The VO issued a challenge case decision notice on 17 May 2024. The VO’s decision was to treat the appellant’s challenge as not well-founded and proposed no change to the rating list.

6. Mr Abbott 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) he confirmed that he was instructed under a contingency fee. 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.

7. 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).

8. The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

<u>*Background*</u>

10. The subject property was a distribution warehouse and two-storey office block that measured 18,180.30m^2. It was purpose built in 1991, was fully insulated, and partially heated by gas blowers. The subject property was used as a warehouse and storage for third party road haulage companies.

11. The property had been included in a valuation scheme for large distribution warehouses in the North West area and was valued at a base rate of £42psm. Mr Abbott was of the opinion that, as the rental market was scarce for similar properties, the area should be wider than 15 miles. He contended that the hypothetical tenant looking for properties similar to the subject property, would not differentiate between a site in Doncaster or Sheffield.

Relevant Law

<u>*The Local Government Finance Act 1988*</u>

12. Schedule 6 of the Act provides that:

> 2(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.

13. 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, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

14. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

Discussion

15. There was a new lease in respect of the subject property that had been agreed with effect from 31 May 2019 with a renewal effective from 31 December 2022. Mr Harrison had stated that the rent of £1.1 million at the renewal in 2022 was significantly higher than the RV and was indicative that the subject property was not under-assessed. Neither party used this rent as primary evidence due to the proximity from the AVD. The panel placed no weight on the new lease or the renewal as they were a minimum of four years post-AVD.

16. Mr Abbott had provided a table of comparable assessments that ranged in size from 14,978.70m^2 to 212,081.80m^2 with unadjusted base rates between £18.50psm and £42psm. It was his contention that South Yorkshire was functionally one market for this type of property. The assessments on the table were up to 50 miles away from the subject property. In response to a question, Mr Abbott confirmed that all of the properties on the table provided were in the same valuation scheme. The table included the subject property and Perrigo, which was used as rental evidence by Mr Harrison.

17. Mr Abbott had also provided rental evidence for four assessments he considered to be comparable to the subject property:

McGregor Cory in Doncaster measured 86,593.51m^2 and had a passing rent of £1,097,048 effective from 31 December 2015. It was in the rating list with an unadjusted base rate of £16psm.

Unit 1 & 2 Europa Road in Sheffield measured 57,774.96m^2 and had a passing rent of £1,208,243 effective from 1 December 2013. It was in the rating list with an unadjusted base rate of £38psm.

Carpets International (UK) Ltd in North Ferriby measured 40,739.44m^2 and had a passing rent of £714,000 effective from 1 June 2013. It was in the rating list with an unadjusted base rate of £19.50psm

Wentworth One in Barnsley measured 9,003.04m^2 and had a passing rent of £205,000 effective from 12 September 2014. It was in the rating list with an unadjusted base rate of £32.50psm.

18. Mr Harrison provided rental evidence for one assessment he considered to be comparable to the subject property:

    Perrigo in Barnsley measured 14,978.70m^2 and had a passing rent of £709,000 effective from January 2016. This is a 12-year lease renewal with a stepped rent, shared external repairs, and the landlord covering building insurance. Mr Harison had adjusted the rent to £668,188 and analysed that to £45.95psm.

19. Mr Harrison stated that within the scheme the subject property is in, there is no quantum allowance until a property is in excess of 50,000m^2 and that the variation of base rates used in the scheme is based upon the location of a property, and therefore the best evidence is that closest to the subject property.

20. The panel considered all the rental and assessment evidence before it. It was the panel's opinion that there was not strong rental evidence submitted from either party. The rent on Perrigo required multiple adjustments and the rents from Mr Abbott were of properties that were significantly different in size.

21. The panel found the assessments in the table from within the scheme useful. Only two properties were valued at £42psm, the subject property and Perrigo. The panel heard from Mr Abbott that Perrigo was 18% smaller than the subject property, was temperature controlled, had a greater yard and storage area, and was located in an established industrial park. The subject property was located at the edge of a residential area. The panel attributed some weight to the size difference of Perrigo; however, it attributed more weight to the location, and it was of the view that the location was superior to that of the subject property.

    The majority of the assessments on the table were between £38psm and £40psm. The panel found that due to the difference in size and location of Perrigo, which was valued at £42psm, the RV of the subject property was unreasonable and appeared out of kilter with other properties within the scheme. For this reason, it was the panels opinion that the RV of the subject property should be reduced to £645,000 by way of an unadjusted base rate of £40psm.

Disposal

22. In view of the above findings and conclusions, the Tribunal Panel is satisfied that the existing assessment is unreasonable and determined an RV of £645,000 with effect from 1 April 2017.

Floor	Description	Area (m^2)	£/m^2	Value (£)
Ground	Warehouse	16,368.80	37.60	615,467
Ground	Plant Room	42.40	35.12	1,489
First	Office	42.40	44.00	1,866
Ground	Office	471	48.00	22,608
First	Office	471	48.00	22,608
Ground	Despatch Offices	93.10	44.00	4,096
Ground	Substation	16.50	39.00	644
Ground	Canopy	162	5.84	946
Ground	Canopy	354	5.84	2,067
Ground	Compaction/Bailer Room	159.10	35.12	5,588
	Total	**18,180.30**	**Subtotal**	**£677,379**
			Plant and Machinery	£2,741
			Total	**£680,120**
			-5% end allowance	£34,005.98
			TOTAL VALUE	**£646,113.53**
			Rateable Value	**£645,000**

23. The Tribunal Panel orders pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (England) Regulations 2009 [SI 2009 No 2269] that the respondent shall alter the 2017 list in respect of Leos Distribution Centre, Broadway, Barnsley, South Yorkshire S70 6RA within two weeks, to £645,000 RV with effect from 1 April 2017.

Date issued to parties: 5 December 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.
