VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; retail premises; accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

APPEAL NUMBER:	(a) CHG101147928 and (b) CHG101147935	
RE:	(a) Unit E2 and (b) 2nd floor, Units E3-E4 Middlesex Business Centre, Bridge Road, Southall, UB2 4AB (the "appeal properties")	
BETWEEN:	(a) FJ Corvan Limited (b) Easigrass Distribution Limited	Appellants
	and	
	Lucy Dyer (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	17 February 2025	
BEFORE:	Mr PJ Ward, Presiding Senior Member Mr N De Freitas, Senior Member	
CLERK:	Mrs D Davies IRRV (Hons) BA (Hons)	
APPEARANCES:	Mr Alistair Moore, of Ryan Property Tax Services Ltd, on behalf of the appellant as both advocate and expert witness Mr Jonathan Reene, on behalf of the respondent as both advocate and expert witness	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal panel determined that the appeal properties' assessments should remain unaltered at:

a. £38,500 Rateable Value (RV) with effect from 25 November 2019, and
b. £37,250 Rateable Value (RV) with effect from 8 March 2023.

Introduction

3. These are 2017 rating list appeals. The appeal properties had been entered in the 2017 list as offices and premises, with RVs of (a) £38,500 and (b) £37,250. The appellants were seeking a reduction in the RV to (a) £14,500 and (b) £11,000. The valuation officer determined the challenges to be not well-founded and so the appellants appealed to this Tribunal. The appeals were registered on 17 September 2024, the grounds being that the current valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

4. In order to assist the panel, the parties had agreed all basic facts before the hearing. The issue in dispute was the correct unadjusted rate to be applied to the appeal properties.

5. Both professional representatives appeared in a dual role as advocate and expert witness. However, it was noted that Mr Moore's company was employed on a contingency fee basis.

6. Both representatives declared that they understood and fully accepted that their duty was to the Tribunal in giving evidence and that they would comply with this as well as the requirements of the professional body, regardless of whether or not the evidence supported the client's case. The panel accepted the expert witness evidence on the above basis: the appeal was not considered complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions - general) of the Procedure Regulations. The panel determined that it was appropriate to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

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

<u>Background</u>

8. The appeal properties are described by the appellants' representative as 'secondary' offices, housed in 1991-constructed buildings which were subsequently converted into office accommodation. The properties are located on a small estate, in an area stated to be 'industrial with surrounding residential'. The unadjusted rate per metre^2 is £200.

9. The evidence before the panel comprised of the information disclosed and exchanged during the challenge process. The submissions included photographs of the appeal property and comparable properties, a location plan of the property, rental evidence for the appeal properties, rating assessments in support of tone, the parties' skeleton arguments, and a copy of the current and proposed valuations.

<u>Preliminary issue</u>

10. On 14 February 2025 the respondent's representative sent some additional photographs of the appeal property and comparable properties. The appellant's representative had

confirmed that he had no objections, and the panel allowed the evidence.

Relevant Law

11. The term ‘rateable value’ was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

12. The material day (the date by which physical factors have to be considered) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. For these appeals, the material dates are (a) 25 November 2019 and (b) 8 March 2023.

Discussion

13. The panel analysed the competing evidence with reference to the findings in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, which was included in the evidence documents. The Lands Tribunal judgment 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 appeal property is accepted to be the correct starting point, with consideration given to how that rent relates to the terms of the statutory definition of rateable value.

14. Unit E2 is let under a three-year lease with effect from October 2020 at a rent of £12,222 per annum. Units E3-E4 (second floor) had a five-year lease agreed in March 2023 at a rent of £13,110. The rents analyse to £63.24 and £70, respectively. The panel noted that these rents were determined over five years and almost eight years after the AVD, and thus it attached little weight to the appeal properties’ rents. The appellant’s representative argued that, although the rental evidence was remote from the AVD, it highlighted the disparity between the rent payable and the adopted rate. He contended the unadjusted rate per metre^2 should be £60.

15. As there was no rental evidence on comparable properties for the panel to consider it reviewed the assessment evidence provided. The appellants’ representative had provided details of over a dozen assessments it considered comparable. The majority of these had originally been assessed at £200/m^2, with outliers at £132/m^2 and £260/m^2, and had been agreed at check or challenge stage. In most cases the revised unadjusted rate was £100/m^2 although the range extended to 165m^2. The panel noted that, in the main, the comparable offices were older builds, with some dating to before 1900.

16. The panel identified two offices as being of similar age to the appeal properties and having a lift, air conditioning and raised floors. The first, Memo House, Kendal Avenue, was roughly four times larger than the appeal properties at 858m^2 in terms of main space. It was assessed at £115/m^2 following a challenge to the original £200/m^2 assessment. Canham Mews was slightly smaller than the appeal properties at £145/m^2; the assessment was reduced from £200/m^2 to £150/m^2 by agreement following a challenge.

17. The valuation officer contended that the appellants' comparable properties were too far from the appeal properties to be considered comparable. The closest was 3.4 miles away and several, including Canham Mews, were over 8 miles from the appeal property. Memo House was 7 miles away. The panel considered that less weight could be applied to comparable properties further away from the appeal property.

18. The panel considered the comparable properties put forward by the valuation officer. They were in the same UB2 postcode as the appeal properties, with most being in the same business centre. The unadjusted rates ranged from £200/m^2 to £230/m^2 for properties which varied in size from 144m^2 to 749m^2. The panel noted that the two properties with a rate of £230/m^2 were converted period properties rather than 1990s builds. The panel found this tonal evidence persuasive.

19. The panel did not consider the evidence put forward by the appellants' representative to be sufficiently convincing so as to discharge the burden of proof. The rental evidence on which the requested rate of £60/m^2 was based was too far from the AVD to be given weight, and none of the provided comparable assessment evidence supported a rate of £60/m^2. The selected comparable properties were also too far from the appeal property to be considered good evidence.

20. The panel found that the evidence provided by the valuation officer, of similarly sized and aged properties to the appeal property, in the immediate locality, supported the current unadjusted rate of £200/m^2.

Disposal

21. In view of the above findings and conclusions, the panel determined that the current assessment was not unreasonable and dismissed the appeal.

Date issued to parties: 28 February 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.
