VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List appeal: Local Government Finance Act 1988; Lotus & Delta v Culverwell (VO) and Leicester City Council [1976] RA141; unit rate; appeal allowed-in-part.

APPEAL NUMBER: CHG101163037

RE: 2, Longlands Road, Bicester, OX26 5AH
(the "appeal property")

BETWEEN: Ralph Davies International Limited — Appellant

and

Lucy Dyer
(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 27 March 2025

BEFORE: Mrs N Carman, Senior Member
Mr SM Hooberman, Member

CLERK: Mrs D Davies IRRV (Hons) BA (Hons)

APPEARANCES: Mr Andrew Hair, of Ryan Property Tax Services Ltd, appellant's representative, as advocate and expert witness
Mr Kieran Chamba, respondent's representative as advocate
Ms Sophia Nichol-Sykes, respondent's witness of fact

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part.

2. The Tribunal panel determined that the appeal property's assessment should be reduced to £255,250 rateable value (RV) with effect from 1 April 2023, based on an unadjusted rate of £70/m^2.

Introduction

3. This is a 2023 rating list appeal. The appeal property is a distribution warehouse and premises, RV £272,500. The appellant was seeking a reduction in the RV to £237,000. At the hearing the appellant's representative confirmed that he had revised his opinion of the valuation and said that he was seeking £246,000 RV, based on an unadjusted rate of £67.50/m^2.

4. The valuation officer determined the challenge to be not well-founded and so the appellant appealed to this Tribunal. The appeal was registered on 25 April 2024, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009, the grounds being that the current valuation for the hereditament is not reasonable.

5. In order to assist the panel, the parties had agreed most facts before the hearing. There was still an outstanding issue regarding the rent on the property; the valuation officer had determined the rent to be £360,000 per annum based on the return (FOR) that it had received. The appellant's representative contended that the FOR had been incorrectly completed, with the rent having been stated inclusive of VAT. He had submitted a copy of the lease which showed the rent to be £300,000 plus VAT. In response to a question from Mr Chamba, Mr Hair stated that the lease details had been provided to the valuation officer at least twice, in February 2024 and October 2024.

6. Mr Hair was appearing on behalf of the appellant as advocate and expert witness. He confirmed that his company was employed on a contingency fee basis. The 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.

7. 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.

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

Background

9. The appeal property is a distribution warehouse with a maximum eaves height of 10 metres. Measured in terms of main space (ITMS), it is 3,733m^2. There is parking for 45 cars and the property is well placed for access to the M40, A34 and A41.

10. A joint inspection was conducted on the appeal property at the challenge stage. As a result, the valuation officer determined that the appeal property was a distribution warehouse rather than a factory. Following the inspection the valuation was amended to reflect the fact that only the offices were heated and that there were additional portable buildings within the hereditament.

11. 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, rating assessments in support of tone, the parties' skeleton arguments, and a copy of the current and proposed valuations.

Relevant Law

12. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 ("the Act") (as amended). The rateable value of non-domestic property 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.

13. In respect of an appeal against an entry in the 2023 Rating List, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832). This common date was used to ensure that every property was treated in a consistent way. For this appeal, the material day is 1 April 2023.

Discussion

14. 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. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence.

15. The rent on the appeal property is accepted to be the correct starting point, with consideration given to how that rent accords to the terms of the statutory definition of rateable value. In this case the two parties had analysed the rent with different results, partly due to the different starting figure used by each side. Although the panel understood why the valuation officer had used the rent stated on the FOR, it was persuaded that the correct rent was £300,000 per annum.

16. The lease was effective from 1 February 2020, 13 months before the AVD. The appellant's agent analysed the rent to £62.80/m^2, a figure the valuation officer disputed on the grounds that the method used was not appropriate. The panel noted the valuation officer's figure of £95.41/m^2, based on a rent of £360,000. Applying the same method to a rent of £300,000 produced a figure of £79.50/m^2. The panel noted the valuation officer's concerns that the rent was not 'useful', because it was low, with the potential for a balloon payment when the property was handed back.

17. The panel went on to review the rental evidence for three nearby warehouses. The appellant's representative stated that his preferred comparators were on Longlands Road. Both were assessed at £75/m^2. 5 Longlands Road is a little under half the size of the appeal property, at 1,693/m^2 ITMS. The August 2020 rent analysed to £69.44/m^2 according to the appellant, and £79.13/m^2 by the valuation officer's calculation. Closest in size to the appeal property was 9 Longlands Road, at 2,126m^2 ITMS. A new rent was agreed in July 2019 and the valuation officer analysed it to £124.75/m^2.

18. Unit 7, Empire Road was a much smaller warehouse, at only 628m^2 ITMS. The new lease was agreed in March 2021, with the rent of £60,000 analysing to £104.27/m^2; it was assessed at £85/m^2.

19. Mr Chamba stated that 5 Longlands Road was not comparable to the appeal property as it was a standard factory. There was no further information given but the panel noted that the comparable properties were all assessed according to the same scheme. Mr Chamba contended that less weight should be given to the rent for this property because it was agreed in the early stages of the pandemic. The panel noted that the lease was agreed six months later than the lease on the appeal property, which was dated 1 February 2020, before the pandemic began.

20. The panel asked Mr Chamba if the lease would be considered the best evidence. He did not give a direct answer, stating that the FOR on the appeal property was the best evidence available at the time. He did not consider that the different information contained in the lease affected the valuation.

21. The panel considered the range of evidence. It noted that, in each case, the comparable property was assessed at a rate under the valuation officer's analysis of the rent. However, the panel reviewed the sizes of the different properties. The smallest one was assessed at a rate of £85/m^2 which demonstrated to the panel that quantum was a factor. The appeal property is approximately 1,700m^2 larger ITMS than 9 Longlands, and over 2,000m^2 larger than number 5.

Disposal

22. Considering the entirety of the evidence, and taking a 'stand back and look approach', the panel is satisfied that the current assessment is unreasonable. The panel allowed the appeal, determining that the unadjusted rate per square metre should be reduced to £70. The revised valuation is shown below.

23. Revised Valuation:

Line	**Floor**	**Description**	**Area m^2/unit**	**Relativity**	**£ m^2/unit**	**Value £**
1	Ground	Area under supported floor	161.95	0.683	47.81	7,743
2	Ground	Warehouse	3355.82	0.975	68.25	229,035
3	Ground	Portable building	18.00	0.750	52.50	945
4	Ground	Portable building	18.00	0.750	52.50	945
5	First	Office	179.95	1.320	92.40	16,627
		Sub-Total	**3733.72**			**255,295**
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION						
		Storage Container	1		80.00	80.00
		VALUATION TOTAL				255,375
RATEABLE VALUE (rounded down)					**SAY**	**255,250**

Order

24. As a consequence of the above decision, the Tribunal Panel orders the Valuation Officer to reduce the 2023 Rating List entry to £255,250 RV, with effect from 1 April 2023, within two weeks of the date of this Order.

25. 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). This will take approximately six weeks to process.

Date issued to parties: 17 April 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.