VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeals; 2017 Rating List; offices; industrial property; appropriate scheme; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeals allowed.

APPEAL NUMBERS: CHG101178993, CHG101176136 and CHG101177740

RE:
(a) Units 4-6,
(b) Units 4-5 and
(c) Unit 6
Arundel House, Garnell Business Park, Welwyn Garden City, AL7 1AY
(the “appeal properties”)

BETWEEN:	Garnell Property Investments Limited	Appellant
	and	
	Joanne Moore Valuation Officer	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 11 February 2025

BEFORE: Miss AC Griffiths, Presiding Senior Member
Mr D Greensmith, Senior Member

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

APPEARANCES: Mr Harry Tann from Ryan Property Tax Services Ltd, on behalf of the appellant as both advocate and expert witness
Mr Lee Stevens, on behalf of the respondent as both advocate and expert witness

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed.

2. The Tribunal panel determined that the appeal property’s assessment should be reduced to

(a) £24,500 Rateable Value (RV) with effect from 1 April 2017,
(b) £14,750 Rateable Value (RV) with effect from 1 May 2020 and
(c) £9,800 Rateable Value (RV) with effect from 1 May 2020,

based on a rate of £84/m^2.

Introduction

3. These are 2017 rating list appeals. Units 4-6 Arundel House had been entered in the 2017 list as offices and premises from 1 April 2017, at an RV of £43,750. From 1 May 2020 the assessment was split, into Units 4 – 5 and Unit 6. A separate appeal was made in respect of the three assessments but, with the agreement of the parties, the appeals were consolidated and heard as one as the grounds in each case were identical. The appellant was seeking a reduction in the RV, contending that the rate of £150/m^2 (subsequently reduced to £130/m^2) was excessive.

4. The appellant submitted the challenges on 31 January 2024. The valuation officer determined the challenges to be not well-founded and issued a decision notice to that effect on 24 May 2024. That decision was appealed to this Tribunal on 12 September 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 was not reasonable.

5. In order to assist the panel, the parties had agreed all basic facts before the hearing. The issue under contention was the assessment of the appeal property. It has been valued as offices and premises, but the appellant was seeking a valuation on an industrial basis, with an uplift for the office space.

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

7. 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.

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

Background

9. The issue before the panel was the correct main rate to be adopted in the valuations for the appeal properties. The valuation officer maintains that the valuation approach is correct but has reduced the adopted value from 150/m^2 to 130/m^2, resulting in rateable values as follows:

(a) £38,000 Rateable Value (RV) with effect from 1 April 2017,
(b) £22,750 Rateable Value (RV) with effect from 1 May 2020 and
(c) £15,000 Rateable Value (RV) with effect from 1 May 2020.

10. The appeal properties are first floor offices above ground floor industrial unit. The units are within a 1990s built detached building which is located on a business park. Unit 6 is held on a freehold basis and units 4-5 are leased through a connected party. The rent, agreed in April 2013 is £60,000 per annum but both parties contended that little weight could be attached to it because it was between connected parties.

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, a location plan, rental evidence, rating assessments in support of tone, the parties' skeleton arguments, a schedule of comparable assessment evidence, and a copy of the current and the proposed valuations.

Relevant Law

12. 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 (SI:2014 No.2841) requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

13. 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 days are, for (a) 1 April 2017 and, for (b) and (c) 1 May 2020.

Discussion

14. The panel analysed the competing evidence with reference to the Lands Tribunal judgment in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141, which was included in the evidence documents. This provided authoritative guidance on the weight to be attached to rental and assessment evidence. 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. The appellant owned the freehold of one of the appeal properties, and the rent on the other units was between connected parties. The rent of £60,000 per annum analysed to £204.72/m^2. In line with the representations made by both parties the panel placed little weight on the rent for the appeal property.

15. The evidence included a schedule of rents on three properties from the locality, two of which were in the same scheme, 321289, as the appeal property. This scheme was 1990s purpose-built offices across Welwyn Garden City, which the appellant's representative argued was inappropriate for the appeal property, contending that the correct scheme should be 300948, industrial with an uplift for offices. Numbers 27 and 31 Hyde Way were assessed at a rate of 150/m^2. The renewal rents, agreed in May 2013 and December 2015 analysed to £131.32

and £135.50/m^2 respectively. A ten-year lease at £45,000 per annum was agreed in respect of Alban House on 25 March 2015. This analysed to £127.09 /m^2. Assessed at 140/m^2 this was in scheme 321265, for pre 1970 offices. Mr Tann argued that these properties, unlike the appeal property, have no industrial aspect to them, and should not therefore be considered comparable. Mr Stevens, for the valuation officer, contended that these rents, at around £130/m^2 demonstrated that the rate of the appeal property was reasonable, noting that it had been reduced from £150/m^2 during the challenge stage.

16. The evidence of the valuation officer included a short history of the rating assessment for Arundel House. In previous rating lists it had been assessed as a whole. It was split following the request of the owner, during the course of which the valuation officer determined that a mistake had been made in the previous assessment. The building consisted of industrial units on the ground floor and offices on the first floor. Mr Stevens argued that when the offices became separately occupied from the industrial units they should not have been valued as offices on an industrial basis plus 20% uplift, but instead as offices over industrial units.

17. The panel considered the photographic evidence. It considered that the interior photographs depicted offices of an average standard, rather than the 'high finish' referred to in the valuation officer's evidence. The building in which the appeal properties were situated looked like an industrial unit, with the rolling metal shutter on the ground floor being very evident. Alban House is next door to the appeal property; the panel noted that it looked notably less industrial than the appeal property. There were no photographs of the Hyde Way properties but both parties stated that there was no industrial aspect to them. In view of the appeal properties not being in purpose-built office buildings, the panel had concerns over placing any reliance on the rental evidence from Hyde Way.

18. In line with *Lotus & Delta*, the panel moved on to consider the assessments applied to other comparable properties, a lengthy list of which had been provided by the appellant's representative. Many of these properties were in scheme 300948, the scheme that the appeal property had previously been valued in accordance with. This scheme covered Welwyn Garden City Industrial Estates built from 1985 to 1993. The schedule listed 13 properties, all offices on the first floor of industrial building and all close to the appeal property. The offices were mostly from the 1980s and 1990s although there were one or two slightly older and slightly newer. The unadjusted rates ranged from £65/m^2 to £95/m^2, although the majority were at £70/m^2.

19. Mr Tann identified properties on Blenheim Court, Bridge Gate Centre and Sutherland Court as the most reliable comparators, being on the same estate as the appeal properties. The evidence included photographs, and the panel noted that the buildings looked like typical industrial units on an industrial estate.

20. The units were in scheme 300948 and assessed at £70/m^2 plus an uplift of 20%. The valuation officer identified these properties as having been incorrectly valued on the 2017 rating list but corrected for the 2023 list. The panel understood that the values in the 2023 list did not have any relevance to the 2017 list and so gave little weight to this argument. In the same scheme, 35 Hyde Way is an older property (pre 1965) assessed at £65/m^2. The panel noted that this was out of step with its neighbours, numbers 27, 31 and 37, which had been refurbished in the 1990s and were assessed at £150/m^2.

Disposal

21. In view of the above findings and taking a ‘stand back and look approach’, the panel is satisfied that the current assessment is unreasonable. The panel allowed the appeals, determining that the unadjusted rate per square metre should be reduced to £84/m^2. The panel determined that this reduced assessment aligned with the appellant’s comparable properties and more accurately reflected the style and location of the building and the quality of the accommodation. Revised valuations are shown below.

Units 4-6 Arundel House – effective from 1 April 2017

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ m^2/unit**	**Value £**
1.1	First	Office	175.95	84.00	14,780
1.2	First	Office	117.13	84.00	9,839
		VALUATION SUB-TOTAL			**24,619**
				SAY	**24,500**

Units 4-5 Arundel House – effective from 1 May 2020

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ m^2/unit**	**Value £**
1	First	Office	175.95	84.00	14,780
				SAY	**14,750**

Unit 6 Arundel House – effective from 1 May 2020

COMPONENT PARTS OF THE PROPERTY					
Ref	**Floor**	**Description**	**Area m^2/unit**	**£ m^2/unit**	**Value £**
1.2	First	Office	117.13	84.00	9,839
				SAY	**9,800**

Order

22. As a consequence of the above decision, the Tribunal Panel orders the Valuation Officer to reduce the 2017 Rating List entry within two weeks of the date of this Order:

    (a) £24,500 Rateable Value (RV) with effect from 1 April 2017,
    (b) £14,750 Rateable Value (RV) with effect from 1 May 2020 and
    (c) £9,800 Rateable Value (RV) with effect from 1 May 2020.

23. 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: 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.