VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List appeal: Local Government Finance Act 1988; unit rate; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

APPEAL NUMBER:	CHG101187380
RE:	20, Barnard Road, Bowthorpe Employment Area, Norwich, NR5 9JB (the "appeal property")

BETWEEN:	Castle Colour Packaging Limited	Appellant
	and	
	Joanne Moore (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	27 March 2025
BEFORE:	Mrs N Carman, Presiding Senior Member Mr SM Hooberman, Member
CLERK:	Mrs D Davies IRRV (Hons) BA (Hons)
APPEARANCES:	Mr Simon Penny, of Ryan Property Tax Services Ltd, appellant's representative, as advocate and expert witness Mr Harry Leigh, valuation officer's representative as advocate and expert witness

---

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal panel determined that the appeal property's assessment should remain unaltered at £46,000 rateable value (RV) with effect from 1 April 2023.

Introduction

3. This is a 2023 rating list appeal. The appeal property is a ground floor and premises, with

mezzanine level storage. The appellant was seeking a reduction in the RV to £36,750, based on a rate of £47.50/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 the basic facts before the hearing.

6. Mr Penny 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 an industrial unit built in 1987. It is constructed of block and polypropylene material. Measured according to gross internal area (GIA), it is 787m^2. The assessment includes 12 parking spaces. Although the address is Barnard Road, the vehicular access to the building is from Morgan Way.

10. The appeal property is assessed under scheme 603391, which applies to "...all units built up to and including 1999, situated in Bowthorpe Employment Area (excluding Charles Watling Way)". Other than Walstan House, all the selected comparable properties are from within the same scheme.

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 for comparable properties, 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. However, in this case the appeal property was held on a freehold basis and so there was no rent passing. There was rental evidence provided in respect of other, comparable, properties and so, in line with *Lotus & Delta*, the panel considered that information.

16. The comparable properties were all located in the same area as the appeal property, with the sizes of the units varying from 350m^2 to 3,039m^2. Closest in size to the appeal property was 36/37 Morgan Way, measuring 610m^2. Like the appeal property, it is assessed at £60/m^2. The lease was agreed 18 months post AVD and the rent analysed to £72.71. There were two further properties on Morgan Way selected as comparable to the appeal property.

17. Number 14/15, a warehouse measuring 454m^2, is assessed at £60/m^2 having been reduced from £65/m^2. The rent of £28,800, agreed in February 2020, was analysed to £61.20/m^2 by the valuation officer and £57.95/m^2 by the appellant's agent. The third Morgan Way warehouse is almost three times bigger than the appeal property. The rent, agreed two years before the AVD, is £102,000 per annum, analysed to £52/m^2 by the valuation officer and £39.74/m^2 by the appellant's representative. It is assessed at £55/m^2.

18. There were three warehouses on Jarrold Way for the panel to consider. Number 14 is half the size of the appeal property. Assessed at £60/m^2, the valuation officer analysed the renewal rent agreed in April 2020 to £63.01/m^2. Units 11/15 measure 1,084m^2 and are assessed at £55/m^2. The rent of £68,500, agreed in June 2019, analysed to £70.87/m^2 according to the valuation officer, with the appellant's agent calculating the figure at £52.63/m^2. Units 3-9 are much larger than the appeal property, at 2,042m^2. The representatives analysed the rent to approximately the same figure, a little below £50/m^2 against a rate of £55/m^2.

19. Two units on Francis Way were assessed at £60/m^2. Both were smaller than the appeal property. The rent for number 16, measuring 386m^2, analysed to £63.83, and for unit 11, 481m^2, the figure was £68.62. Both rents were agreed roughly nine months post AVD, in January 2022 and February 2022 respectively.

20. A factory and premises with an address on Barnard Road, Walstan House, is, at 6,039m^2, over seven times larger than the appeal property. It is valued on a different scheme. The rent of £360,000 per annum analysed to £49.20/m^2 and it is assessed at £50/m^2. The panel

considered this property less comparable to the appeal property and weighted the evidence accordingly.

21. The panel asked the respondent's representative why he believed that £47.50/m^2 was the appropriate rate for the appeal property. He stated that he had a taken the average of the base rents and adjusted slightly for outliers and market movement. Both representatives contended that post AVD rents were not ideal rents to start from and stated that during the pandemic lockdown the market was not working normally.

22. Mr Penny stated that the valuation matrix provided that assessments in the range of 271m^2 to 750m^2 were to be assessed at £60/m^2. The panel noted from the evidence before it that there was a clear pattern to the assessments: warehouses under 1,000m^2 were valued at a rate of £60/m^2. Those assessed at £55/m^2 were over 1,000m^2. Unfortunately, as the evidence before the panel included only the appeal property in the range from 750m^2 – 1,000m^2 the panel could not ascertain if a different rate applied to that group.

23. The appellant's agent stated that it was confusing for his client that some units in the same scheme as the appeal property had seen their assessments reduced, but the panel noted that the result of the reductions was that the pattern was maintained. It further noted that the reason that the appeal property did not have a reduction in the rateable value when neighbouring properties did could simply have been because the appeal property was already correctly assessed.

24. The panel determined from the above that quantum was a factor. The appellant's representative was seeking a reduction to a rate below that applied to the largest comparable property.

25. 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. Neither the rental evidence on which the requested rate of £47.50/m^2 was based nor the provided comparable assessment evidence supported such a rate. In the panel's view the rental evidence for the properties below 1,000m^2 was persuasive. The analysed rents were within a range from £57.95/m^2 to £72.71/m^2. The rate per metre squared for the same selection of properties was £60 in every case.

Disposal

26. 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: 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.
