VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List; Factory and premises; Compiled List Entry; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed in part.

APPEAL NUMBER: CHG101208299

RE: UNITS 7-13, ENTERPRISE WAY, MAULDEN ROAD, FLITWICK, MK45 5BS (the "appeal property")

BETWEEN:	Robovision Ltd	Appellant
	and	
	Mrs J Moore (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Wednesday 12 March 2025

BEFORE: Mr I Lonsdale (Presiding Senior Member)
Mr WJ Read (Senior Member)

CLERK: Miss K Hendry

APPEARANCES: Mr M Evans of Ryan (Appellant's Representative
Ms S Jenkins (Respondent's Representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The panel confirmed the rateable value (RV) £405,000 with effect from 1 April 2023.

Introduction

3. The challenge proposal was submitted by the appellant's representative and was received by the Valuation Officer (VO) on 17 April 2024. It had been made on the grounds that the RV

shown in the rating list of £442,500 on 1 April 2023 was inaccurate. A revised RV of £390,000 was proposed with effect from 1 April 2023.

4. The VO issued a challenge case decision notice on 5 July 2024 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by the appellant's representative on behalf of the appellant, and received by the Tribunal on 23 October 2024.

6. Mr Evans 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), Mr Evans confirmed that he was instructed under a contingency fee basis and 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). The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

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

Background

9. The appeal property consisted of three industrial units. Unit 1 had been built in 1986 and it measured 3,826.49m^2. Unit 2 was built in 1977 and it measured 2,183.42m^2. Both these units had been valued at £55/m^2. Mr Evans was seeking a reduction to £50/m^2. Unit 3 was much newer having been built in 2002. It measured 2,784.17m^2 and had been valued at £70/m^2. Mr Evans was seeking a reduction to £55/m^2.

Relevant Law

10. The subject property must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988).

11. The panel was aware of the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 cited by the parties. This case had established six propositions, which gave clear guidance to be followed, namely:

(1) 'Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1976 the more weight should be attached to it.

(3) Where rents of similar properties are available, they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in such circumstances, it would be clearly more difficult to reject the evidence of the actual rent.'

12. 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 1992/556) as amended. In respect of the subject appeal, the material day is 1 April 2023.

Discussion

13. The appellant's representative stated that the appeal property, which was held on a freehold basis had been valued by the VO as one hereditament and placed in a scheme for industrials measuring 3,000-10,000m^2 built between 1971-1999. However, these values did not correlate with other comparable properties in the locality. He confirmed that the appeal property had been previously valued under the local tone in the 2017 rating list with quantum factored in for the size of the appeal property.

14. Mr Evans argued that the two older properties, Units 1 & 2, should be valued having regard to valuation scheme 635285 which was applicable to industrial units in mid-Bedfordshire built between 1971 and 1989. The tone for local hereditaments in this scheme was £50/m^2. Mr Evans argued that these two units had been valued by the VO based on a number of rents located in Dunstable. However, Dunstable was a more desirable location than Flitwick as referenced by 1970-80's units in Flitwick valued at £50/m^2 compared to £62.50 - £70/m^2 in Dunstable.

15. In support of £50/m^2, Mr Evans referred to Unit 12, Enterprise Way was comparable in age and size measuring 2515.75m^2 and 10a Enterprise Way measured 1437.00m^2. Both had been valued at £50/m^2.

16. For Unit 3, Mr Evans referred to valuation scheme 633287 which was applicable to smaller modern industrial units in the Flitwick area built from 2000 onwards. The tone for local hereditaments in this scheme was £60/m^2 as evidenced by Units 19-20 and Units 22-23

Pulloxhill Business Park, MK45 5EU which were much smaller measuring 1380.06m^2 and 1331.87m^2.

17. As the appeal property was much larger, Mr Evans argued that an element of quantum should be applied, and therefore Unit 3 should be valued at £55/m^2. Mr Evans referred to rental evidence on 35 and 36 Kenneth Way, Wilstead MK45 3PD. These two properties were 19 years newer having been built in 2021 and were held on new leases within ten months of the AVD. The rent devalued to £64.66 and £62.58 supporting the value of £70/m^2 being too high.

18. Mr Evans referred to agreements on Lancaster Way, Biggleswade SG18 8YL which were distribution sites located within the locality to show that the adopted rate of £70/m^2 was inflated for the locality. The properties had been reduced from £75m^2 to £67.50m^2.

19. In support of the current values the VO relied upon Unit 7-8 Alborne Way, Biggleswade SG18 8BN which had been built in 1972 and measured 2318.24m^2. The rent was analysed to £72.44/m^2 supporting the current RV for the appeal property. This property had been valued at £50/m^2. Unit 3, Juno Place, Stratton Business Park, Biggleswade SG18 8XP measured 3484.26m^2 and it had an analysed rent of £95.68/m^2, however it was a newer unit and was situated in a more distribution orientated location. It was in the list at a rate of £75/m^2. Unit 5 and Unit 10 Enterprise Way which were both 1972 build properties measuring 3239.94m^2 and 3171.95m^2. Unit 5 had an adopted rate of £62.50/m^2, however it was showing in the rating list as £60.94 due to an allowance applied. Unit 10 was £62.50m^2. Units 11-14 Foster Avenue Dunstable was built in 1988 and measured 5480.89m^2. The rent analysed to £71.30/m^2 and was in the list at £70/m^2. Whilst this property was not in the same locality as the appeal property, the VO argued that it was useful evidence to support the appeal property.

20. The VO also referred to Dickens House, Unit 16 Enterprise Way which measured 11278.88m^2 and was built in 1979. It was much larger than the appeal property and had been valued at £45/m^2. Unit 1, Commerce Way, Flitwick was a similar size to the appeal property measuring 7249.57m^2, built in 1989 and had been valued at £55.00m^2.

21. Having regard to the evidence presented, the panel concluded that the basic rate adopted by the VO of £55/m^2 for Unit 2 and £70/m^2 for Unit 3 was excessive and should be reduced to £50/m^2 and £55/m^2 as requested by the appellant's representative. The comparable properties provided by the VO were all individual units and not three units added together to make an overall size like the appeal property had been valued. The panel placed greater weight on the argument presented by Mr Evans that the units should be individually valued as they were in the 2017 rating list based on the local tone.

22. The panel considered the rate applied to Unit 1 and as it measured 3,826.49m^2 the panel held the best comparable to be Unit 5 and Unit 10 Enterprise Way. Unit 10 was built in 1972, so slightly older than the appeal property by 14 years and it was smaller at 3171.95m^2. As it had been valued at £62.50/m^2. The VO had also relied upon Unit 5 Enterprise way which had been built in 1976. This unit measured 3120.04m^2 and had been valued at £62.50/m^2. Therefore, the tone for units on Enterprise Way measuring in excess of 3000m^2 had been valued higher than £50/m^2, at £62.50/m^2. As the appeal property had been valued at £55/m^2, the panel held it was not excessive.

23. For Unit 2, the panel held that the best comparable was 12 Enterprise Way which measured 2515.75m^2 in comparison to the appeal property at 2183.42/m^2. As 12 Enterprise Way had

been valued at £50/m^2, it supported a reduction from £55/m^2 for the appeal property. The panel also noted that the VO's comparable of Unit 7-8 Alborne Way was of a similar size at 2318.24m^2 and although the rent had been analysed to £72.44, it was in the list at £50/m^2. Therefore, the panel held that the rate adopted for Unit 2 should be reduced to £50/m^2.

24. In terms of Unit 3, which measured 2,784.17m^2 and had been valued at £70/m^2, the panel held this to be excessive and adopted a revised value of £55/m^2. This was in line with Units 19-20 and Units 22-23 at Pulloxhill Business Park which although they had been valued at £60/m^2 they were much newer build and half the size of the appeal property.

25. The valuation was amended as follows:

Line	Floor	Description	Area(m²)	Price(£/m²)	Value(£)
1	Ground	Loading Bay	121.6	£26.13	£3,177
2	Ground	Workshop	328.94	£52.25	£17,187
3	First	Office	328.94	£66.00	£21,710
4	Ground	Canopy	316.8	£8.25	£2,614
5	Ground	Production Area	2521.89	£55.00	£138,704
6	Ground	Workshop	208.32	£55.00	£11,458
7	Ground	Production Area	1173.87	£48.75	£57,231
8	Ground	Production Area	846.21	£48.75	£41,257
9	Ground	Office	7.5	£58.51	£439
10	Ground	Mess/Staff Room	142.39	£53.63	£7,636
11	Ground	Kitchen	13.45	£58.51	£787
12	Ground	Workshop	2716.22	£55.00	£149,392
13	Ground	Canopy	67.95	£8.25	£561
		Total	**8794.08**	**Subtotal**	**£452,153**

End Allowance Description			
	Layout	**-10%**	-£45,215

Total Value	**£406,937**
Rateable Value	**£405,000**
Effective Date	**01/04/2023**

Disposal

26. The panel therefore confirmed a revised RV of £405,000. The panel therefore allowed the appeal in part.

Order

27. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2023 Rating List entry to £405,000 with effect from 1 April 2023 within two weeks of the date of this order.

Refund of appeal fee

28. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date issued to parties: 3 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.
