VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2023 Rating List; dance school and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141; tone of value for main space; scope of proposal; appeal allowed in part.

APPEAL NUMBER: CHG101209576

RE:	Fierce Studios, Harvard St, Rochdale OL11 2HA ("the subject hereditament")

BETWEEN:	JL	Appellant
	and	
	Lucy Formela-Osbourne (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	14 February 2025
BEFORE:	Mr W Read (Presiding Senior Member) Ms L Owusu-Afriyie (Senior Member)
CLERK:	Mr S Fletcher
APPEARANCES:	JL (Appellant) Mr T Brown (Respondent's representative)

DECISION and STATEMENT OF REASONS

Decision

1. The appeal was allowed in part. The panel determined the rateable value (RV) of the subject hereditament to be £11,750 with effect from 3 October 2023.

Introduction

2. The appeal process began with a proposal made by the appellant on 20 April 2024 in respect of the Valuation Officer's (VO) list entry of the subject hereditament at £18,000 RV with effect from 3 October 2023. The appellant proposed a revised assessment of £7,000

RV from that date based on a reduced tone of value for main space and disputes regarding the floor area.

3. The respondent issued a challenge case decision notice on 6 June 2024 which stated that, based on the evidence available, the existing rating list entry was unreasonable, and determined a revised entry of £13,750 with effect from 3 October 2023. The revised RV accounted for a revised tone of value for main space from £80 per m^2 to £70 per m^2 and the removal of the basement from the assessment. The appellant appealed that decision to this Tribunal on 13 September 2024 on the grounds that the valuation for the subject hereditament remained unreasonable.

4. The subject hereditament was a dance school and premises of 223.5m in a single storey detached building, located in Rochdale.

5. In order to assist the appellant, who expressed a wish to present her evidence second, the panel varied the tribunal's model procedure and invited Mr Brown to begin.

6. This decision document is not and does not purport to be a verbatim record of proceedings.

Issue

7. The panel was required to determine the correct RV to be attributed to the subject hereditament in the 2023 rating list. The issue in dispute concerned the tone of value for the main space.

Evidence and submissions

8. Arguments and factual evidence from both the appellant and the respondent were provided. This comprised documentation exchanged between the parties as part of the challenge process, the appellant's challenge submission, the respondent's challenge decision notice and reference to, location plans and photographs of, the subject hereditament and properties deemed comparable to it by the parties. The Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 was also referred to.

Discussion

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

10. In accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020/832), the date of the hypothetical rent was 1 April 2021, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

11. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day is 3 October 2023.

<u>Tone of value of main space</u>

12. It is a well-established rating principle that the starting point in the determination of a property's RV should be the rent passing on the subject hereditament itself. The subject

hereditament had a new letting agreed at £18,000 per annum with effect from 27 April 2022. The respondent had analysed the rent to £79.72.

13. The respondent also referred to a comparable assessment to the subject hereditament with rental evidence. 142 Rooley Moor Road had a new letting of £8,700 per annum with effect from 1 December 2019, which the respondent analysed to £70.76. The tone of value for main space at the property was also £80 per m^2, reduced to £76 per m^2 to reflect an absence of heating. The agreement was not on a full repair and insurance basis (FRI). Mr Brown contended that the analysed rents at the subject hereditament and 142 Rooley Moor Road demonstrated that the respondent's tone of value for main space at the subject hereditament was not unreasonable.

14. The appellant contended that VO had not considered the location and economic realities of the subject hereditament when making its assessment. She stated she had little knowledge of the local area of Rochdale when signing the lease as she was originally running a studio in the neighboring town of Oldham, and the lease was signed when the rental market and inflation were at a high following the COVID-19 pandemic. She argued that Balderstone and Kirkholt, the location of the subject hereditament, was a heavily deprived area with high crime rates and anti-social behavior. It was her opinion that the rent at the subject hereditament was over-inflated, and more expensive than it is worth given its location.

15. The appellant contended that the VO had specifically provided 142 Rooley Moor Road as a comparable assessment as it had one of the highest tones of value for main space in the area. She argued that the occupier benefitted from small business rates relief (SBBR) as it was smaller and therefore would have no reason to appeal. She also stated that the tone of value for main space was only applicable to the reception area rather than the studio. Mr Brown stated that the tone of value for the studio at 142 Rooley Moor Road was lower as it was on the first floor which was usual in the assessments of typical studios in the subject hereditament's Valuation Scheme. The appellant did not consider it to be fair that the VO had relied on just one comparable assessment, and suggested it was due to a lack of rental evidence in the area.

16. The appellant instead referred to comparable assessments as tonal evidence. She had compared the subject hereditament to the other assessments which fell within Valuation Scheme 617423 and stated that the subject hereditament and 142 Rooley Moor Road had the 7th and 8th highest tones of value for main space out of 64, the next in the list in Rochdale were 42nd, 46th and 51th. She argued that the tone of value for the subject hereditament was out of kilter with those in its locality, as the assessments within the top 10 out of 64 were located in Manchester city centre or Cheshire, which she contended were far more affluent areas with high demand and triple the rents within Rochdale.

17. The appellant referred to ten hereditaments in Valuation Scheme 617423 which she deemed comparable to the subject hereditament. She had calculated the average tone of value of main space to be £41.30 per m^2, significantly lower than the subject hereditament. She stated that 242 Ainsworth Lane BL2 2QJ was most similar in size to the subject yet had a tone of value of main space of £50.40. 11 Peel Street BL4 8AA, Central Dancing Academy OL1 1HY and JD Dance Club were over double the size of the subject hereditament yet had lower tones of value for main space. She argued that 1st Floor Rock Street Oldham OL1 4UJ and 66 Market Street OL2 7AD were in a better location being in Oldham town centre yet had lower tones of value for main space at £22.50 per m^2 and £63.75 per m^2 respectively. The appellant stated that half of the properties studios were also located on the ground floor. Mr Brown provided various reasons for the lower tones of value, such as location, allowances as some were studio space which was located on the first floor, and differentials in the quality of buildings. The appellant also referred to AN Elite Cheer, it too was a dance studio but within Valuation Scheme 588175 where the base rates

were between £15 per m^2 and £55 per m^2. The tone of value for main space was significantly lower than that of the subject hereditament being £27 per m^2. Given it shared the immediate locality of the subject hereditament, she contended that demonstrated that it was over assessed.

18. In accordance with *Lotus and Delta*, the panel considered the passing rent as a starting point and found it reliable as it was in close proximity to the AVD and closely conformed to the rating hypothesis. It found that the VO's analysis of the rental agreement supported the VO's determined tone of value for main space of £70 per m^2. Turning to the third proposition in *Lotus and Delta*, the panel considered the rental evidence provided by the VO from 142 Rooley Moor Road. It applied less weight to that assessment given the studio was located on the first floor which Mr Brown had stated was a significant factor in assessments in the Valuation Scheme which it and the subject hereditament were being assessed in accordance with. It also was not on an FRI basis.

19. When considering the fourth proposition, assessments of other comparable properties which had been provided by the appellant, the panel was satisfied that a lower of tone of value for main space was warranted at the subject hereditament than determined by the respondent. The panel was persuaded by the arguments pertaining to locality by the appellant. She had provided several comparable assessments which were within the same Scheme yet had significantly lower tones of value for main space. The panel was aware that some of those assessments were in Bolton, however, it considered the rental market in those areas would be broadly similar to Oldham given they were towns in Greater Manchester which were outside but in close proximity to Manchester city centre. The panel agreed with the appellant that the subject hereditament's assessment appeared out of kilter with other assessments in Oldham, given it was aligned in the top 10 of 64 assessments alongside properties in the Manchester city centre and Cheshire. areas which it considered would clearly command higher rental values given their more desirable locations. The other comparable assessments in the Scheme in Oldham were significantly lower in the Scheme and towards the lower end.

20. Focusing on the immediate locality of the subject hereditament, the panel gave credence to the contentions of the appellant regarding the disadvantages of its location when compared to those in Oldham town centre. The panel found town centre locations to be significantly beneficial due to their prominence, footfall and transport links. 1st Floor Rock Street OL1 4UJ was a similar size to the subject hereditament, benefitted from a town centre location yet its tone of value for main space was significantly less at £22.50 per m^2. 66 Market Street OL2 7AD also had a lower tone of value for main space at £63.75 per m^2, however, it too benefitted from a town centre location. The appellant had provided a comparable assessment closest to the subject hereditament, Am Elite Cheer, which had a tone of value of main space of £27 per m^2.

21. The panel had attached significant weight to the passing rent at the subject hereditament, however, balanced with a lower tone of value for main space on the basis of a stand back and look approach when considering the comparable assessments provided by the appellant, it was satisfied that a tone of value for main space of £60 per m^2 was fair and reasonable in this instance. This was lower than determined by the respondent accounting for the lower tone of value for main space at similar properties within the locality of the subject hereditament and Valuation Scheme, but not as low as sought by the appellant due to the strength of the rent passing at the subject hereditament itself.

Scope of proposal

22. The appellant also made reference to the history of the assessment of the subject hereditament. The subject hereditament was previously Balderstone Conservative Club.

That entry was deleted by the VO and Fierce Studios entered into the 2017 list with effect from 30 August 2022 on 29 September 2023. The RVs for the subject hereditament were £18,000 with effect from 30 August 2022, £5,400 with effect from 1 April 2023 and £18,750 with effect from 3 October 2023 (reduced to £13,750 following the appellant's challenge).

23. In her appeal papers, in addition to her proposal against the RV of £13,750 in the 2023 list, the appellant disputed the RV of £18,000 with effect from 30 August 2022 in the 2017 list. The panel's jurisdiction is limited to determining the disagreement that arises out of the originating proposal. The appellant's challenge cited an interested party disputes an alteration to the RV made by the VO on the 2023 list, with effect from 3 October 2023. Therefore, that was the sole issue the panel was able to determine.

24. A challenge that can be made against the 2017 list on or after 1 March 2023 is where there is a VO list alteration, and the check is submitted within 6 months of the alteration pertaining to the alteration of the list by the VO being inaccurate or the effective date is incorrect. Unfortunately for the appellant in this appeal, her challenge was in respect of the 2023 list. She had 'missed the boat' to submit a challenge against the 2017 list as six months had elapsed since the subject hereditament was entered into the 2017 list with effect from 20 August 2022 on 29 September 2023. The panel did however note that Mr Brown stated at the hearing that the respondent would look to remedy the RV in the appellant's favour in the 2017 list through a transitional certificate.

Disposal

25. The panel determined that the tone of value for main space was £60 per m^2. The revised assessment for the subject hereditament's 2023 rating list entry with effect from 3 October 2023 as determined by the panel was as follows:

COMPONENT PARTS OF PROPERTY				
Floor	**Description**	**Area m^2/unit**	**£ per m^2/unit**	**Value (£)**
Ground	Studio	148.01	60.00	8,881
Ground	Store	42.58	40.20	1,712
Ground	Public Toilets	8.47	40.20	341
Ground	Store	13.49	37.80	510
Ground	Store	6.71	37.80	254
Ground	Internal Storage	4.24	28.80	122
			Valuation sub-total	11,820
			Say RV	**11,750**

26. In view of the foregoing, the appeal was allowed in part as the respondent's valuation of the subject hereditament was determined unreasonable, but not to the extent as sought by the appellant.

27. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject hereditament's entry in the rating list to £11,750 with effect from 3 October 2023. The respondent must comply with this order within two weeks of its making.

28. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date: 28 February 2025

Right of 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.