THE VALUATION TRIBUNAL FOR ENGLAND

Transitional Relief Certificate appeal – value of property as at 31 March 2017 – Certificate issued for transitional relief purposes as entry in 2010 rating list could not be amended – rental evidence – tonal evidence – Lotus and Delta v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 - *appeal dismissed*

Re: Unit 1, Cross Lane, Gateshead, NE11 9HQ

APPEAL NUMBER: VT00018644

BETWEEN:	Mr J Roberts t/a Storage 24 and	Appellant
	Ms A Hitchings (Valuation Officer)	Respondent

PANEL: Mr F Stuart (Presiding Senior Member)
Dr T Webb (Senior Member)

CLERK: Mr A Jolly

REMOTE HEARING: Wednesday 29 November 2023

APPEARANCES: Mr C Roberts of Heathwood Business Services Ltd representing the appellant
Mr J Roberts the appellant
Mr M Hardman representing the respondent

Summary of decision

1. Appeal dismissed. The rateable value (RV) on 31 March 2017 for transitional relief purposes was £6,500.

Introduction

2. The valuation officer issued a certificate of rateable value for transitional purposes on 23 July 2023 stating that as at 31 March 2017 the RV for the appeal hereditament should be £6,500. The appellant's representative lodged an appeal against the certificate on 2 August 2023 considering the RV should be £4,450.

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

4. Mr Roberts 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 Roberts' declaration of truth included a statement that he was not instructed under any conditional fee arrangement. Mr Roberts declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and 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.

Issues

5. The issue before the panel concerned what RV should be applied as at 31 March 2017 for transitional relief purposes.

6. The appeal hereditament was two adjoining properties comprising fenced and unsurfaced storage land with the north section equating to 910 m² and the south equating to 3965 m².

Preliminary Issue

7. Prior to the hearing the respondent sought a postponement as the appellant had challenged the single entry of the assessment considering it should be two hereditaments. The appellant objected to the request on the grounds that the issue of separate assessments had been known for three months prior to the hearing and the last minute nature of the request when they had altered plans to attend.

8. At the hearing the request was made by the respondent but the appellant confirmed that they were not proceeding with an appeal on the issue of how many hereditaments should be in the 2017 list and that they would deal with that matter on the 2023 list. The respondent withdrew his request and therefore the hearing proceeded.

Evidence and submissions

9. Both parties had provided their submissions and evidence in accordance with the standard direction. The evidence included a statement of case, rental analyses; details of comparable hereditaments.

10. The appellant's representative considered that the respondents comparable hereditaments were not truly comparable as they were waste/recycling transfer centres which were more expensive than land used for storage of containers and caravans. He considered that the price per m² should be adopted having regards to other similar used sites across the wider region but still within the same scheme as the appeal hereditament.

11. The respondent considered that the rent passing provided the best evidence of the value to be applied together with comparable properties from within the Gateshead area. The unadjusted rate adopted was £1.91 per m² adjusted to £1.34 m² was correct.

Decision and reasons

12. The appellant's representative considered the adjusted valuation of £1.34 per m² was excessive. He stated that a number of changes had occurred within the 2017 rating list entry which meant a number of transitional relief certificates had been issued ranging in value from an adjusted rate of 88 pence per m² to £1.34 per m². He stated that the RV in the 2017 rating list had, at one stage, been calculated at £60,500 and the transitional relief certificate was given an RV of £9,500 based on a price of 88 pence per m².

13. He considered that the adjusted price of £1.34 m² was not based on the comparable values of similar assessments in the area. Based on other caravan storage yards within the greater Tyneside area, the same area covered by the scheme in which the appeal hereditament was placed in, the average price per m² is £1.18 per m². He considered his comparable hereditaments were more comparable to the appeal property than the VO's which were waste transfer sites which commanded higher rents.

14. The appellant's representative stated that the VO had informed him that the valuation was based on a size-based valuation scheme but had not provided any supporting evidence that this was the correct method nor evidence that the valuations were size based. He stated that the VO had informed him that the VO's comparable hereditaments loosely supported the notion of quantum. Mr Roberts provided the valuations for Units 1, 2 and 3 Cross Lane which ranged from 350 m² to 10,830 m² with all but the largest assessment being valued at £3.08 per m² and the largest being valued at £5.60 per m².

15. The appellant's representative referred to the six propositions laid out in the *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 concerning the weighting of evidence. He stated that the appeal hereditaments, which were held on two leases, provided clear evidence of rents, rents of similar properties in the area covered by the same scheme supports his contention that the adjusted rate of £1.34 per m² was too high and that the VO's comparable hereditaments were not appropriate as were waste transfer site with higher rents.

16. The appellant's representative considered that the adjusted value had not taken account that the hereditament was two separate parcels of land with different lease values and different uses. He also queried the VO's rental analyse as he had analysed the rent on the actual land within the rating assessment, but the lease included further land which was not part of the assessment but should have been included within the analysed rent.

17. The appellant's representative stated that an earlier transitional relief certificate which had been issued in October 2022 had an adjusted value of 88 per m² and that the increase between that certificate and the current one related to an increase of 53% which could not be correct.

18. The appellant's representative sought a reduction in RV to £4,450 based of £1.02 per m² being applied to the North unsurfaced area of 990 m² and 88 pence being applied to the South unsurfaced area of 3,965 m².

19. The respondent stated that a check had been received against the 2017 rating list entry of RV £24,500 which was reduced to RV £15,000 with a further alteration to the list to RV £14,500 and a transitional certificate was issued for RV £6,500 as at 31 March 2017 as he was unable to amend the 2010 rating list at this stage.

20. The respondent stated that the property had been in a poor condition and had been overgrown and that the appellant had spent £60,000 on improvement.

21. The respondent also referred to the six propositions laid out in *Lotus and Delta* v *Culverwell (Valuation Officer) and Leicester City Council* [1976] RA 141 decision. He stated that the rent of one lease of £10,000 devalued to £2.51 per m² and the rent of the other lease of £40,000 devalued to £5.01 per m² and therefore supported the adjusted rate of £1.34 per m² adopted. He understood that the there was a rent free period which would reduce the analysed rent to £4.40 which was still supportive of the adjusted rate adopted.

22. The respondent did not consider the appellant's representative's comparable hereditament to be truly comparable. Whilst he accepted the appellant's representative's comparable hereditaments provided caravan storage they were a considerable distance from the appeal hereditament with some being circa 10-22 miles away.

23. As he had to consider the appeal hereditament as vacant and to let he was valuing storage land and not the use of the land and therefore considered his comparable hereditaments supported his valuation. He considered the most compelling to be Atkinson Skip Hire which was within a similar locality to the appeal hereditament.

24. The respondent considered that the analysed rents of his comparable hereditaments illustrated that the larger the parcel of land the lower the price per m² of the rent. He accepted that he had been unable to provide details from the rating manual in relation to quantum.

25. The respondent also considered comparisons between rating lists was not relevant as each is based on rental values at different antecedent valuation dates (AVD). He requested the panel to dismiss the appeal and confirm RV £6,500 with effect 31 March 2017.

26. The panel accepted that the respondent had mis-calculated the rental analyse for the North section of the appeal hereditament as he had used the area contained within the rating assessment of 990 m² whereas the lease included more land that was not included in the rating assessment and therefore the area to be used should have been 4,800 m² which gave a devalued rent of £2.08 per m². The panel considered the rents provided the best evidence as to value and at £2.08 per m² and £4.40 per m² supported the adjusted rate of £1.34 per m² being applied.

27. The panel had to value the appeal hereditament vacant and to let and therefore as storage land and not as caravan or container storage. The panel therefore considered all comparable hereditaments and weighted them accordingly. Whilst the appellant's representative's comparable hereditaments were all in similar use to the appeal hereditament and were within the same valuation scheme the panel considered they were too distant from the appeal hereditament and therefore placed lesser weight on this evidence.

28. It considered the respondent's comparable hereditaments which, vacant and to let, were storage land, to be comparable to the appeal hereditament and as they were all closer to the appeal hereditament provided evidence of rental levels. The panel therefore placed more weight upon this evidence.

29. The panel was aware of the issue of quantum and noted that from the rents provided by the VO a pattern was emerging where rent was higher per m² for smaller parcels of land albeit only slightly.

30. The panel noted the comparisons between the 2017 rating list entry and the 2010 rating list but as each have different AVD's comparisons between lists were not relevant. It also noted the comparisons between different transitional relief certificates but again the panel was concerned with the certificate before it.

31. The panel having considered all the evidence presented had not been persuaded by the appellant's representative that the unadjusted rate of £1.91 adjusted to £1.34 per m² was

incorrect. It considered the analysed rent of the appeal hereditament supported the adjusted rate of £1.34 per m² being applied together with the comparable hereditaments closer to the appeal hereditament. The panel therefore dismissed the appeal and confirmed the RV for the transitional relief certificate at £6,500.

Date: Tuesday 19 December 2023

Appeal number: VT00018644

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.