

Appeal Number:	681535711469/537NV17/10
Appellant:	Ryan (formerly Altus Group UK) agent for CPS Group UK Limited
Appeal Property:	Part of First Floor, Golate House, 101 St Mary Street, Cardiff, CF10 1AT
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	1 st April 2025
Appearances:	Mr A Sharkie (for the appellant) Mr K McAloon (for the respondent Valuation Officer)
Decision and its date:	Appeal dismissed – 14 th April 2025
Tribunal Members:	Mr T W Jones (Chairperson) Mr J Pyrke Mr P Russell
Tribunal Clerk(s):	Mr C Richards Mr G Harris

Introduction - Issues in Dispute

1. The appeal before the tribunal followed a proposal made by Altus Group UK Limited on behalf of the occupier, CPS Group UK Limited, in respect of Part of First Floor, Golate House, 101 St Mary Street, Cardiff, CF10 1AT, which the respondent Valuation Officer received on 2nd December 2021. The proposal sought that the entry in the 2017 Rating List be reduced from £53,500 to £1 with effect from 1st April 2017, on the grounds that *'the rateable value shown in the list for a hereditament was inaccurate on the day the list was compiled'*.
2. The following is a summary of the cases presented and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the Tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

Legislation and Case Law

- The Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005 (SI 2005/758)
- The Local Government Finance Act 1988 - Paragraph 2(1) Schedule 6:

2(1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from non-domestic rating] shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions-

- (a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;*
- (b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;*
- (c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.*

Schedule 6 also provided for the Antecedent Valuation Date (AVD), the date by reference to which the rateable value of the hereditament was to be determined, this was 1st April 2015 for the 2017 Rating List.

- Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council [1976]
- O'Brien v Harwood (VO) [2003]
- Ladies Hosiery and Underwear v West Middlesex Assessment Committee [1932]

Evidence and Submissions

Appellant Submission:

3. Mr Sharkie explained that the appeal property formed part of a floor in a 1970s office building located in central Cardiff. Prior to occupancy by the appellant, it was renovated by the landlord and fitted out with new carpets, ceiling, lighting and toilets.
4. The current occupier agreed the lease in September 2013, with it being on the market for over two and a half years prior to being let. A copy of the lease, photographs of the hereditament, copies of the marketing brochure and a map of its location were provided in evidence. Mr Sharkie confirmed that the

physical assessment itself is not in dispute. The issue at hand is the value applied to per square metre, believing that the current value of £99.56/m² was disproportionately high when compared to available rental evidence.

5. Mr Sharkie contended that the rent on the appeal property was the key evidence as per principles set out under *Lotus & Delta Ltd v Culverwell*. Being 18 months pre-AVD, he claimed this to be a strong indicator of the value that should be applied. Although agreeing that the rent was highly incentivised, he described it as being an open market arm's length transaction and therefore fit within the definition of rateable value. For these reasons, it should not have been disregarded by the VOA.
6. Mr Sharkie referred to an extract of the rent in his evidence pack, which he had analysed to £39,292pa. Five car parking spaces had been valued at £800/space and separately assessed, leaving a net rent of £35,293pa. His calculation resulted in a price per m² of £65.37, rounded down to £65.00/m².
7. Mr Sharkie disputed the comparable rents provided by the VO. From his experience, the VO would always prefer rental evidence before the AVD, yet in this case the rents provided are at least 14 months after the AVD.
8. Mr Sharkie, with reference to Floors 2, 3 and 4, Golate House which all had unchallenged values of £97/m², disputed the VO's assumption that these indicated the 'Tone of the List' had been agreed. There could be several reasons why an occupier would not appeal their RV. He believed that every other assessment in the building had undergone a change in occupation in the life of the 2017 list, which could easily be a reason why they haven't been appealed.
9. Mr Sharkie requested that a Rateable Value of £35,000 to be applied with effect from 1st April 2017.

Valuation Office Submission:

10. Mr McAloon introduced his submission by confirming that the key dispute is the weighting given to certain evidence. Mr Sharkie is electing to put all of his weight on the subject rent, whereas the VO are of the opinion that other evidence should be considered, and accordingly weighted in line with *Lotus and Delta*.
11. Mr McAloon did not dispute the appellant's analysis of the rent; he had arrived at a similar figure during his analysis. However, he highlighted that it had been agreed some 18 months pre AVD and was of a complex nature due to the six-month rent-free period and stepped rent thereafter, but he did agree with the appellant's devaluation in calculating the annual rent..
12. Mr McAloon referred to other rents within Golate House, which had remained unchallenged at £97/m². In his opinion the 'Tone of the List' had been settled as per guidance set out under *O'Brien v Harwood*, which acknowledged three stages of a rating list:

*"1. At first, when a new rating list is put on deposit, entries will carry relatively little weight: they are opinions of value by the valuation officer, as yet unchallenged and untested by negotiation.
2. Over time assessments will be challenged and agreed or determined by an LVT or this Tribunal or accepted by lack of challenge.
3. Finally, a stage is reached where enough assessments have been agreed or determined or are unchallenged to establish a pattern of values, a tone of the list. The list is then said to have settled.*

Rents will be largely subsumed into assessments. At that stage rating surveyors will have little regard to rents and pay considerable attention to assessments."

13. Acknowledging that these rents were post AVD, he wished to highlight the subject rent and other rents payable within the building, which demonstrated that if the VO were to use the rental analysis this would show a hundred percent increase since 2013, contrasting Mr Sharkie's opinion that rents had remained "relatively flat".
14. A location plan was provided to indicate two comparable office spaces that had been appealed near the subject property. 33/35 Westgate Street and 10th Floor West Wing, Southgate House were introduced. Westgate Street was agreed at £86m² noting that it was three times larger than the subject property. Southgate House was agreed at £102.50m², being closer to Central Square and smaller than the subject property. Both cases were agreed with professional representatives of the appellants. Mr McAloon believed these properties should carry significant weight and supports the VO rating of £97m².
15. Mr McAloon argued that he had established a pattern of values with similar 1970's buildings within the locality, two agreed assessments on properties in the immediate vicinity and three properties within the subject building that remain unchallenged. It was his opinion that the reason why the other floors were unchallenged is that they appear reasonable considering the rental evidence.
16. In conclusion, Mr McAloon believed that whilst the subject rent was a new let, there is other evidence within the "basket" that should predominantly carry more weight, especially the settlement evidence, as it is late in the rating list. He requested a RV of £52,000 to be confirmed by the Tribunal, on the basis of an adjusted rate of £97 per square metre.
17. During cross-questioning, Mr Sharkie asked if McAloon agreed that references to Southgate house is inadmissible as evidence as it was not included in the evidence received prior to the Tribunal under Regulation 31 of SI 2005/758. Mr McAloon responded by stating that whilst he agreed it was not included in the Regulation 31 evidence, it had been discussed between parties as a consequence of raising the settlement and therefore pertinent to the decision. Mr Sharkie disputed this, as during discussions with the VOA no reference to Westgate Street or the appeal property had been made.

18. Mr Sharkie also referred to case law *Ladies Hosiery v West Middlesex* and questioned whether the VO have applied uniformity over correctness in their argument. Mr McAloon responded that the point of correctness before uniformity in this case was that the List should be correct rather than everything should follow a previous element and it shouldn't follow an incorrect assessment. The key issue with the subject property is, it should be the starting point rather than everything placed on the subject. In this instance, when one looks at the other evidence it would suggest that the subject rate is out of kilter.

Decision and Reason

19. The sole matter for the Tribunal to decide, was whether the 2017 Ratings List entry for the subject property should be reduced from £53,500 to £35,000 as contended by the appellant or to £52,000 as conceded by the Valuation Officer.

20. The Tribunal considered both arguments relating to the weighting of evidence together with guidance set out under *Lotus & Delta v Culverwell* which stated:

- (i) Where the hereditament which is the subject of consideration is actually let that rent should be taken as a starting point.*
- (ii) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of gross value in s19 (6) of the General Rate Act 1967 the more weight should be attached to it.*
- (iii) Where rents of similar properties are available they too are properly to be 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 hereditament.*
- (iv) Assessments of other comparable properties are also relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values as estimated by the valuation officer. In subsequent proceedings on that list therefore they can properly be referred to as giving some indication of that opinion.*
- (v) In the 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 different 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.*
- (vi) 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 clearly be more difficult to reject the evidence of the actual rent.*

21. The Tribunal agreed that the passing rent should be considered as the starting point but believed that the rent on the subject property was too far away from the AVD and therefore placed less weight on it to be used in isolation. Accordingly, the tribunal looked at the assessments of comparable properties provided by the Valuation Officer and placed greater weight on these as evidence when making its decision.

22. The Tribunal was mindful of Mr Sharkie's comments about the inclusion of Southgate House in the VO evidence. It decided that even if evidence relating to this comparable property were to be disregarded, the settlement on 33/35 Westgate Street and the uncontested rates on other floors within Golate House were accepted to compile a "basket" of evidence. The Tribunal considered these supported the 'tone of the List' as per O'Brien v Harwood. Hence, the Tribunal considered Mr McAloon's revised valuation of £97m² to be in line with other assessments in the locality.
23. The Tribunal was aware that the burden of proof rested with the appellant and not the respondent Valuation Officer by virtue of a statutory duty to prepare and maintain the Rating List. Whilst it recognised that the rental analysis of the subject property was agreed by both parties, the Tribunal felt there was insufficient evidence provided by the appellant to warrant a RV of £65m² compared to other properties in the locality.
24. Consequently, the appeal is dismissed. The Tribunal orders the Valuation Officer to amend the RV of Part of First Floor, Golate House, 101 St Mary Street, Cardiff, CF10 1AT to £52,000 with effect from 1st April 2017.