

Appeal Number:	682539039740/285NV17
Appellant:	Dreams Limited
Appeal Property:	Retail Warehouse and Premises, Unit 4 Pensarn Retail Park, Stephens Way, Pensarn, Carmarthen, SA31 2BG
Matter Appealed Against:	2017 Non-Domestic Rating List
Hearing Date:	20 March 2025
Appearances:	Mr A Sharkie of Ryan formerly Altus Group UK Limited on behalf of the appellant and Mr A Morse on behalf of the Valuation Officer
Decision and its date:	Appeal Dismissed – 29 April 2025
Tribunal Members:	Mr L H Robinson (Presiding Member) and Mr C S Wilson
Tribunal Clerks:	Mr R T Williams assisted by Mr R Williams

Introduction - Issues in Dispute

1. The subject appeal arises from a proposal submitted by the appellant to the Valuation Officer on 31 March 2023 challenging the appeal property's entry in the 2017 Rating List.
2. The grounds of appeal as contained in the subject proposal were as follows:
3. *"Following revaluation on 01/04/2017 it is our opinion that the Rateable Value as applied to the subject premises is incorrect, contrary to law and a disproportionate reflection of the change in rental values in the locality between the dates 01/04/2008 and 01/04/2015. We therefore seek reduction of this assessment with effect from 01/04/2017 to £1.00."*
4. In accordance with Regulation 30(2) of the Non-Domestic Rating (Alteration of Lists and Appeals) (Wales) Regulations 2005, all parties present agreed to only two members determining the subject appeal.

Legislation and Case

- Local Government Finance Act 1988
- The Rating Lists (Valuation Date) (Wales) Order 2014
- Ladies Hosiery and Underwear Limited v West Middlesex AC [1932]
- Lotus and Delta v Culverwell (VO) & Leicester City Council [1976]
- K Shoe Shops Limited v Hardy (VO) & Westminster City Council [1980]
- Oldschool & Oldschool v Coll (VO) [1995]
- Vines Ltd v de Mauny (VO) [2010]
- BPP Holdings Limited v Revenue and Customs Commissioners [2016]
- Telereal Trillium v K Hewitt (VO) [2018]

Evidence and Submissions

5. The appellant informed the Tribunal that the appeal property was a typical retail warehouse located on Pensarn Retail Park, south of Carmarthen town centre, close to a junction for the A40, A48 and A484.
6. The appeal property was formerly occupied by Brantano Footwear followed by Poundworld and then his client Dreams Limited. It was set back from the main frontage of the estate, partially obscured from the main access road and did not benefit from kerbside visibility like other units on the estate.
7. His client's tenure was held on a leasehold basis at £27,500 per annum agreed in 2018. He had however attached little weight to this passing rent as it was too far removed from the Valuation Date of 1 April 2015.
8. The appellant also attached little weight to the rent paid by Poundworld on the appeal property agreed in 2016, which was on a 10 year lease at £67,500 per annum. He suggested that the forms of return provided by the VO in respect of this rent provided contradictory information regarding start dates along with the lease ending after two years following Poundland vacation. Accordingly, he suggested that this rent had little relevance along with the fact it was agreed past the Valuation Date.
9. He confirmed that the appeal property was currently valued at £110/m², however, he argued it was too high in comparison to the prevailing value of other retail units on the estate at £90/m².
10. In support of his contention that the appeal property should attract a unit rate of £90/m², the appellant referred to the letting at Unit 1 Stephens Way, which was agreed closer to the Valuation Date in January 2016 at rent of £48,000 per annum with a substantial rent free period of 21 months along with a 5 year tenant break free clause. He reported that across this unit's area, it devalued to £63.37 in comparison to the unadjusted value of £90.
11. He challenged the VO's contention that the lack of submitted appeals by other occupiers on the same estate reflected the acceptance of tone and suggested the VO's contention was illogical as there could be numerous reasons why no appeals were submitted. He continued that the appeal property was clearly overvalued when there was little difference in the quality and construction of the units on the estate and a distinct lack of quantum being reflected.
12. The appellant added that almost all the units on the estate were valued at £90/m² including those between 153m² to over 3,000m² in size with only 3 units including the appeal property not valued at the estate's established unit value of £90/m².
13. He referred to an appeal agreed in the current Rating List in respect of Unit 8 occupied by The Food Warehouse where the unit rate was reduced from £95 to £90/m² along with its neighbouring unit which was also altered to £90/m².
14. Summarising, the appellant believed that the evidence he had provided demonstrated that the unit value on the estate was consistent at £90/m² and was at a loss to understand how the VO contends that the appeal property should attract a higher value unit rate.

15. In conclusion, he requested that the Tribunal confirm a unit value rate of £90/m², which would attract a revised assessment for the appeal property at £41,500 Rateable Value with effect from 1 April 2017.
16. During cross-examination by the VO, the appellant confirmed that there was no direct parking to the front of the appeal property and suggested that it suffered from poor parking facilities in comparison to the rest of the retail park.
17. The appellant accepted that an appeal made by his company on behalf of the occupier of Unit 1 Stephens Way was withdrawn therefore suggesting that the assessment value of £90/m² was fair.
18. The VO informed the Tribunal that he would be defending the unit rate value currently applied to the appeal property and would provide evidence in support of his contention.
19. He explained that the appeal property formed part of a group of four units on the Pensarn Retail Park namely Matalan (Unit 1), Sports Direct (Unit 2) and Pets at Home (Unit 3), who have been in occupation probably since they were built in 2004.
20. The VO confirmed that the appeal property at Unit 4 was occupied by Brantano shoes in 2005, Poundworld in 2016 and then by the appellant's client in 2018.
21. He provided a brief history regarding the valuations at Units 1, 2 & 3 explaining that an appeal was made in respect of Unit 1 by the agent G L Hearn on behalf of Matalan and was agreed to reduce the unit value from £92.50/m² to £90/m².
22. In respect of Sports Direct (Unit 2) and Pets at Home (Unit 3), he reported that both occupiers were represented by national agents in respect of Non-Domestic Rates and that no appeals were received from those agents against either assessment and therefore the unit value of £110/m² had been accepted with no challenge.
23. The VO opined that those three properties located at the same part of the retail park as the appeal property and built of similar specification at the same time were the best evidence available of value in the locality.
24. He explained that some groups of properties located on Pensarn Retail Park were older dating from the early 1990s and were valued accordingly at a lower unit rate of £90/m² to reflect those units poor specification along with less car parking.
25. The VO also remarked that the retailer Charlies, occupied 16 Stephens Way, a 1990s property valued at £72.50/m² attracting an assessment of £217,000 RV, in comparison to Matalan valued at £90/m² with an assessment of £307,500 RV. He commented that whilst both properties were similar in size, the Pensarn Retail Park units were recognised as being newer and of better specification and hence the difference in unit value.
26. In respect of the forms of return completed by Poundland, the former occupier of the appeal property, declared at £67,500 in July 2016 on a 10 year lease, he commented that the difference in dates between both forms of returns was as a result of a 6 month rent free period and therefore saw no contradiction in the information provided.

27. He explained that when analysing that rent with its incentives over a 10 year period and adjusting back you arrived at a rent of £62,400 per annum, which when devalued with the actual area gave a unit rate of £133/m², a value far in excess of £110/m².
28. In view of the supporting evidence he had provided, the VO requested that the Tribunal confirm the existing valuation in respect of the appeal property attracting a unit rate of £110/m² as fair and accordingly dismiss the appeal.
29. During cross examination by the appellant, the VO reiterated his opinion that the lack of appeals from agents representing occupiers on the retail park supported his contention that a tonal level of value had been established. Also, the agent of the agreed Matalan appeal did not submit an appeal in respect of the unit occupied by Pets at Home, whom that agent also represented. Agents have the opportunity to look at property valuations on the VO's website having regard to the physical makeup and survey details before considering whether to make an appeal or not.
30. The VO did not provide rental information in respect of the unit occupied by Matalan and that of Unit B, as he did not believe they were relevant given that that the best evidence was that of the passing rent on the appeal property.
31. The VO restated that the difference in dates between both forms of returns on the passing rent of the appeal property was as a result of a 6 month rent free period and he saw no contradiction in the information provided. He was not aware of any clause allowing the occupier to vacate after two years. The lease was signed for 10 years and the rent was analysed over that period.
32. The VO confirmed that there was an element of quantum reflected especially in respect of unit occupied by Charlies, however, the majority of the retail park was built in the 1990s and therefore commanding a level of value at £90/m². Whereas Units 1, 2, 3 and 4 had always been valued at higher level of value to reflect a more modern architectural design with decent car parking.
33. The VO did not see much relevance in the fact that the appeal property being set back would be detrimental in value, as majority of shoppers would travel by car with the purpose of visiting the retail park knowing the occupiers trading on the estate.

Decision and Reasons

34. The Tribunal was mindful that Non-Domestic property must be valued in line with the statutory definition of Rateable Value, as contained in paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999, and in accordance with The Rating Lists (Valuation Date)(Wales) Order 2007, Statutory Instrument No: 2007/3153 (W269), which determined that the appeal hereditament must be valued by having regard to rental values achieved at the Antecedent Valuation Date, 1 April 2015, whilst looking at the physical circumstances of the property at the Material Day, 1 April 2017.
35. It was also aware that the appeal hereditament must be assumed to be "vacant and to let" and cannot have regard to the actual trade of the occupier and that it was important to ascertain whether a tone of value had been established.
36. Referring to the statutory definition of Rateable Value and the Lands Tribunal judgement in *Lotus & Delta v Culverwell (VO) and Leicester City Council [1976]*, the Tribunal was mindful that the best evidence was provided by rents synonymous with

the statutory definition, passing on the subject property and which required little or no adjustment.

37. The Tribunal was also conscious of the High Court case of *Vines Ltd v De Mauny (VO) [2010]* which provided guidance that it was for the appellant to demonstrate that the existing assessment was incorrect and not for the Valuation Officer to prove that it was right. However, the case of *Oldschool & Oldschool v Coll (VO) [1995]* offered guidance in that the Valuation Officer was required to provide comprehensive, impartial evidence to achieve correct assessments and not simply to win rating appeals.
38. In respect of the subject appeal, the Tribunal believed it was important to ascertain whether a tone of value has been established on the Pensarn Retail Park and accordingly considered the arguments put forward by both parties.
39. Having regard to the evidence overall, the Tribunal was persuaded by the Valuation Officer that in the current 2017 Rating List that a tone of value has been established on the Pensarn Retail Park with the majority of the units built in the 1990s attracting a unit rate of £90/m² and the more modern assessments such as the appeal property along with Unit 2 and 3 attracting a unit rate of £110/m². It was aware that Unit 1 was entered at a unit value of £90/m² to reflect an element of quantum.
40. The Tribunal opined that the rental information provided by the Valuation Officer in respect of appeal property was also persuasive in that when analysing that adjusted rent, it arrived at a value of £133/m², which was in excess of the appeal property's current unit rate value of £110/m².
41. The Tribunal also concurs with the Valuation Officer the fact that no appeals were made by the representatives of the neighbouring Units 2 and 3 to the appeal property was convincing in that the level of tone at £110/m² was deemed acceptable.
42. Therefore the Tribunal was of the opinion that the appeal property's unit rate of £110/m² was fair and that its current assessment appearing in the 2017 Rating List of £55,000 Rateable Value was correct. Accordingly, the Tribunal dismiss the appeal.