



and £51,000 rateable value for Piper Transport Services Ltd at Botany Way, Purfleet. Both proposals were against compiled list entries.

4. The appellant's representative sought a reduction in the respective assessments to £10,500 rateable value for Tab Tyres and £24,500 rateable value for Pipers Transport Services Ltd. Both of these were revised assessments after agreeing facts with the Valuation Officer prior to the hearing.
5. According to the Valuation Officer's records, the rent passing on Tab Tyres was £20,400 pa with effect from 1 April 2010 with the commencement of the lease from 1 April 2009. There were no rent details available for Piper Transport Services Ltd.
6. With the agreement of the parties the hearing of the appeals was consolidated.
7. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel

### **Issue**

8. The issue in dispute concerned whether or not an end allowance was justified for the alleged planning blight for the warehouse units. The appellant's representatives sought a 50% end allowance for blight whilst the Valuation Officer believed that no allowance was justified.
9. The outstanding factual matters concerning the insulation at Piper Transport Services Ltd were resolved prior to the hearing.

### **Evidence and Submissions**

10. Both parties provided written and oral evidence to support their respective cases.
11. The appellant's representative relied on the following evidence to support his case:
  - The Thurrock Thames Gateway Development Corporation Annual Reports of 2007/8, 2009/10 and 2011/12.
  - Council report of 5 September 2012 on the Purfleet Regeneration Programme
  - Letter from the Chief Executive of Thurrock Council to the local MP
  - Email and other correspondence with Douglas Piper of Piper Transport Services Ltd
  - Warehouse and Premises, 45 Balfe Street, London N1 9EF – 57.5% allowance for Compulsory Purchase Order (CPO)
  - Offices and premises 1-3 floors 8-10 George Street, Croydon CR0 1PA – 34% allowance for CPO confirmed on the property.
  - The rents in respect of Hanson at £60,000 pa and Tank Clean at £40,000 pa referred to in the Thurrock Thames Gateway Development Corporation Annual Report and Accounts 2011/12 in comparison with the entries in the Rating List.
  - Valuation Scheme reference 107973.
  - The legislation and case law.

12. The respondent Valuation Officer provided his reasoned statement of case, a copy of the originating proposals, photographs, extracts from the Valuation Office Agency Rating Manual covering material changes in circumstances, extracts from case law and comparable property details; he sought a dismissal of the appeal for Tab Tyres and a revised assessment of £48,000 rateable value with effect from 1 April 2010 for Pipers Transport Services Ltd.
13. The case law referred to by the parties included the following:
- K Shoe Shops Ltd v Hardy (VO) and Westminster City Council [1983] RA 26
  - Lotus and Delta Ltd v Culverwell (VO) and Leicester CC [1976] LT RA 141
  - Dawkins (VO) v Ash Brothers & Heaton Ltd [1969] 2AC366 HL
  - Prodorite Ltd v Clark (VO) [1993] RA197 (LT)
  - Lloyd (VO) v Rossleigh Ltd [1962] RA 135 CA

### **Decision and Reasons**

14. The main issue in dispute concerned whether or not an end allowance was justified for blight. There was a secondary issue in dispute regarding factual matters in relation to Pipers Transport Services Ltd but this was resolved prior to the hearing and resulted in a revised assessment of £48,000 rateable value for that property with effect from 1 April 2010. The revised assessment did not include any allowance for blight.
15. The statutory definition of Rateable Value referred to a rent agreed between a hypothetical landlord and tenant. For this purpose, a property should be valued vacant and to let and assumed to be in a reasonable state of repair unless any outstanding repairs were uneconomic for the landlord to undertake. The weight to be attached to the rental evidence would be dependent upon how closely that rent resembled the terms of the Rateable Value definition.
16. The starting point for a rating assessment was usually the rent on the property in question; the panel's attention had been drawn to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council*, as this case set out authoritative propositions that have since become established for weighing both direct and indirect rental evidence and of comparable assessments.
17. The appellant's representative contended that both properties had been blighted by the Thurrock Thames Gateway proposals for Botany Way and the gradual acquisition of sites by the Thurrock Thames Gateway Development Corporation and now their successor, Thurrock Council, under ultimate treat of compulsory purchase. It was acknowledged that the proposed development of Purfleet centre had had a detrimental impact on occupiers in the locality and that the impact had continued longer than originally anticipated because of the associated delays. In his detailed submission, the appellant's representative argued that the threat of compulsory purchase existed at both the antecedent valuation date and the material day and had had a substantial depreciating effect on rental values. He also gave examples of assessments in other parts of the country where allowances were given over an extended period.

18. In *Prodorite Ltd v Clark (VO)* there was a situation where the tone was established before the circumstances arose with regard to a draft CPO. The tribunal held that there was a reasonable prospect of continuing in occupation and that the judgment of *Dawkins (VO) v Ash Brothers & Heaton Ltd* was not applicable. In the present appeals, the appellant's representative believed that the threat of CPO existed at the antecedent valuation date and the material day and therefore he did not believe the case of *Prodorite* to be relevant.
19. In the *Dawkins* judgment it was determined that where there was expectation of demolition within a year, the effect on value should be taken into account even if they did not take place for several years. In the present appeals the economic conditions pushed back the granting of the CPO, despite some demolitions which had occurred.
20. The appellant's representative therefore contended that it was right to take account of the blight that existed at the antecedent valuation date and at the material day and sought a 50% end allowance for the impact of blight for both appeal properties.
21. The respondent explained to the panel that he believed that all physical changes to the properties or its locality post 1 April 2010 should be discounted as being outside the scope of the proposals. Both proposals were against the compiled list entries.
22. The respondent also believed that following the Court of Appeal decision in *Lloyd (VO) v Rossleigh Ltd* that as at 1 April 2008 the proposed planning changes should not affect the tone, as recognised in the *Lloyd* decision there was a question mark over the long term future of the site. In the subject appeals, the respondent argued that this was not the case as he was not interested in the long term future but what someone would pay rent on a year to year basis with a reasonable prospect of continuance. He contended that it was difficult to understand that by accepting the tone on one hand, it could then be argued that the alleged planning blight would mean that rents would be depressed by 50%, as the rents would surely reflect the market at that time.
23. The respondent made reference to a number of rents for other properties in the general locality. Unit 3 Botany Way was rebuilt/repared in 2009 after being destroyed by fire despite the alleged blight. Similarly, Adhesive Technical Services in Botany Way was rebuilt after 2008. In both instances, tenants were in the market to take the units but they were not receiving 50% discounts from the tone price and they were entering into leases with terms beyond a year. The respondent argued that the rents available at 2008 did not suggest a 50% reduction was or should be included.
24. Addressing the rent on (Tab Tyres), the panel found a six year lease from April 2009 where the rent increased from £19,200 in 2009 to £21,600 in 2011. This also suggested that the appellant's deduction for blight was reflected. This was supported by the rent passing on a workshop at Wincanton Transport Site, Beacon Industrial Estate, Botany Way where there was a five year lease from May 2009 at £40,000 against a rateable value of £37,500. A 2010 appeal on this property was struck out. This property was valued from the pre 1995 matrix at £60/m<sup>2</sup>, the same as the other appeal property Piper Transport Service Ltd. Both of these latter properties were of a similar size.
25. In conclusion, the respondent was of the view that rental evidence around the 2008 antecedent valuation date did not show rents 50% below that of the tone subsequently adopted. He also believed that all physical changes to the appeal properties locality post 1 April 2010 should be ignored as these were compiled list appeals and those changes were irrelevant to the 1 April 2010 valuation.

26. Having considered the evidence from both parties the panel was persuaded by the respondent's arguments. More importantly, the panel understood that it would have been highly probable that the appellant at Pipers Transport Services Ltd would have known about the possible threat of blight and that any effect on value would have been reflected in the six year lease and rent agreed in 2009.
27. Furthermore, it was evident that a CPO had been served in the comparable properties put forward by the appellant's representative, which the panel considered would be a relevant factor in those decisions but there was no application for a CPO in relation to the appeal properties at the material day.
28. The panel therefore saw no reason to grant an end allowance for the reasons set out by the appellant's representative for blight or the threat of a CPO in respect of the appeal properties. Consequently, the appeal on Tab Tyres, Botany Way Purfleet was dismissed.
29. However, with regard to Pipers Transport Service Ltd, Botany Way, Purfleet although the panel did not grant an end allowance for blight, it did accept the Valuation Officer's revised rateable value of £48,000 with effect from 1 April 2010, which took into account the agreed factual matters prior to the hearing in relation to insulation. Consequently this appeal was allowed in part.

### **Order**

30. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to alter the Rating List for Pipers Transport Services Ltd, Botany Way, Purfleet, Essex within two weeks from the date of this order to show a Rateable Value of £48,000 for the appeal property, with effect from the 1 April 2010.

**Date:** Friday 9 October 2015

**Appeal numbers:** 159517187947/538N10 and 159517344762/538N10