

THE VALUATION TRIBUNAL FOR ENGLAND



Non domestic rating appeals; 2010 Rating List Appeals; Warehouse and premises; Basic price; Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council [1976] RA 141; Rental and Assessment evidence; Comparables; Tone; Appeals Allowed in part.

Re: Unit 12 at 1000 North Circular Road, London NW2 7JP

APPEAL NUMBER: 515017938756/541N10

BETWEEN: Charles Pugh (Windscreens) Ltd Appellant

and

Mr M Dunlevey Respondent
(Valuation Officer)

PANEL: Mr A Edwards (Chairman)
Mr S Hooberman

SITTING AT: Tribunal Offices, 2nd Floor, 120 Leman Street, London E1 8EU
ON: Friday 13 February 2015

APPEARANCES: Mr J Hoskins of Evans and Payne on behalf of the Appellant
Mr P Thorne (Representing the Respondent)

Summary of Decision

1. The appeal was allowed in part.
2. The assessment was reduced to £50,000 Rateable Value effective from 1 April 2010.

Introduction

3. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the Panel when coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.
4. The appeal arose from a proposal submitted on 29 January 2011 on behalf of the appellant by Evans and Payne Surveyors against the compiled list entry of £50,500

rateable value, effective from 1 April 2010 on the basis that the rateable value was excessive and incorrect.

5. The appeal property was a terraced steel framed building with eaves height of 6 metres and constructed in 1980. The appeal property was located in an industrial area to the south of the A406 North Circular close to its junction with the A5 and the M1 motorway. There was no dispute on the areas of the appeal property.
6. It was agreed by the parties that additional rental and assessment evidence could be submitted.

Issue

7. The issue in dispute was the level of value to be attributed to the appeal property.

Evidence and Submissions

8. The Valuation Officer's representative described the appeal property and its location and outlined the basis of valuation. His written submission contained extracts from the legislation, photographs and details of rental and comparable assessments in support of the current assessment. He contended that rental, comparable and settlement evidence of other appeals in the locality, supported his assertion that a tone of value had been established at £95.00 m² for the main space of the appeal property at 1 April 2010. The Valuation Officer's representative highlighted that following an inspection on 6 February 2015, a correction in the survey details of the appeal property had resulted in a reduction to the assessment and therefore he sought a revised assessment of £50,000 rateable value effective from 1 April 2010.
9. The submission of the Appellant's representative outlined the background to the appeal and contained extracts from the legislation, photographs and details of rental and comparable assessments, a revised Statement of Case and his valuation in support of his proposed assessment. He contended that the basic price should be reduced to £90.00 per m² based on the rent passing of £50,150 per annum effective from 28 September 2007 and the price per m² rates having been reduced on neighbouring units.
10. Consequently, the appellant's representative contended that the assessment should be reduced to £47,500 Rateable Value effective 1 April 2010.

Decision and Reasons

11. The Panel determined that the appeal should be allowed in part.
12. The assessment was reduced to £50,000 rateable value effective from 1 April 2010.
13. For rating purposes the property is to be valued vacant and to let. The Rateable Value is, in essence, the rental value of the property on a full repairing and insuring basis as at 1 April 2008.
14. The Panel found authoritative guidance from the Lands Tribunal's judgment in *Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council* [1976] RA 141, that the passing rent on the appeal property should be used as the starting point in its consideration of the rateable value for the appeal property. The more closely that rent matched the rating hypothesis, then the more weight should be attached to it. In this

respect, the rent passing on the appeal property was £50,150 per annum effective from 28 September 2007 on a 10 year lease, renewed with 5 yearly reviews on a Full Repairing and Insurance basis.

15. The appellant's representative contended that as this was agreed outside of the protection of the Landlord and Tenant Act 1954, that the tenant was under some pressure to agree it at a higher level than was warranted as he had no security of tenure during negotiations.
16. Consequently, in line with the guidance in the Lotus and Delta case, the Panel had regard to other rental evidence of comparable units within the same terrace of units to ascertain if the tone applied was excessive. These showed analysed rates of £91.13 m² for unit 14 at 1000 North Circular being 504.88 m² on a rent of £53,000 per annum effective from 26 March 2007 on a Full Repairing and Insurance 10 year lease with 5 yearly reviews, whilst for unit 10 at 1000 North Circular being 856.54 m² on a rent of £55,000 per annum effective from 2 March 2008 on a 10 year lease with 5 yearly reviews with the landlord carrying out external repairs and the tenant carrying out internal repairs and insurance, an analysis of the rent resulted in £91.13 m² and the main space price adopted was £95.00 per m².
17. The Panel found support for the appeal property's price of 95.00 per m² from the assessment evidence of settlements of Unit 10 which had been agreed with The Rating Advisory Bureau and Unit 13 which had been discussed and then withdrawn with Dunlop Heywood. These settlements had resulted in there being no change in the valuation basis.
18. The Panel considered that based on the evidence submitted, a tone had been established at a basic price of £95.00 per m² for the appeal and this basic price was not excessive.
19. The Panel rejected the contention of the appellant, that a reduction to £47,500 Rateable Value effective from 1 April 2010 based on a main space price per m² of £90.00 per m² should be applied. The Panel noted the appellant's main comparable properties at Units 1& 2 and 7&8 Phoenix Industrial Apsley Way which had analysed rents set between 25 March 2006 and 24 June 2006 of £101.00- £102.13 per m² with an adopted price per m² of £110 per m². These properties were currently under appeal; Unit 1 and Unit 4 Aquarius Business Park, Priestley Way had analysed rents set between 24 June 2007 and 11 March 2008 of £98.82- £99.06 per m² with an adopted price per m² of £100 per m² having been reduced by the Valuation Officer. The appellant's representative highlighted that Unit 2 Staples Corner Business Park, Edgware Road had a rent set on 29 April 2008 of £96,900 which had been reanalysed by the Valuation Officer to take account of a 6 month rent free period on assignment and reduced to £69.63 per m² from £86.00 per m² with a revised adopted price per m² of £70 per m² from £90 having previously been in the same valuation scheme as the appeal property and was close by.
20. The Panel noted the points raised by the appellant in this appeal regarding the price per m² adopted on neighbouring units and therefore relative to their location, the price per m² should be reduced for the appeal property. However, the Panel considered that the prices adopted on these larger properties reflected the rental levels passing and demand for these units. Whilst the level adopted on his main comparable Unit 2 Staples Corner Business Park, Edgware Road had been reduced to £70 per m² based on a reanalysis of the rental information available.

21. In addition, the Panel considered that the application of a general tone of £95.00 m² based on the analysed figures on units, 12 and 14 took account of a rising rental market in March and September 2007 which would have been higher at 1 April 2008 and a passing rent in March 2008 on unit 10 being close to the AVD, consequently, the tone of £95.00 m² was not excessive notwithstanding the smaller size of these units.
22. Ultimately, the Panel made a finding that based on the totality of evidence submitted by the Valuation Officer's representative, that the tone of value of £95.00 per m² for the main space price of the appeal property was fully justified, given its location.
23. The Panel also noted that a correction in the survey details of the appeal property warranted a reduction in the assessment and consequently, the appeal was allowed in part and the rateable value was reduced to £50,000 effective from 1 April 2010 for the appeal property in accordance with the order below.

Order

24. Under the provisions of Regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the rating list entry of the appeal property to £50,000 with effect from 1 April 2010.
25. Under Regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date: 11 March 2015

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