



RA/54/2007

**LANDS TRIBUNAL ACT 1949**

*RATING – valuation – purpose built B8 premises on industrial estate – 2005 Rating List – tone of list - comparables – disabilities – appeal dismissed*

**IN THE MATTER of an APPEAL from a DECISION  
of the NORTH WALES VALUATION TRIBUNAL**

**BETWEEN**

**ABER ROOF TRUSS LIMITED**

**Appellant**

**and**

**IAN CHRISTOPHER GUEST  
(Valuation Officer)**

**Respondent**

**Re: Part of Go-Kart site, Babbage Road,  
Engineer Park Industrial Estate, Sandycroft, Deeside CH5 2QB**

**Before: P R Francis FRICS**

**Sitting at: Chester Civil Justice Centre, Trident House,  
Little St John Street, Chester CH1 1SN**

**on  
28 March 2008**

Mr W D Hopkins for the appellant with permission of the Tribunal  
The respondent in person, with permission of the Tribunal

The following cases are referred to in this decision:  
*Lotus and Delta Limited v Culverwell (VO) and Leicester City Council* [1976] RA 141

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## **DECISION**

1. This is an appeal by the ratepayer, Aber Roof Truss Limited, from a decision of the North Wales Valuation Tribunal (VT) dated 11 June 2007, which reduced the assessment in the 2005 local non-domestic rating list on the land and premises known as Part of Go-kart Site, Babbage Road, Engineer Business Park, Sandycroft, Deeside (the hereditament) from £24,500 to £24,000 Rateable Value. The effective date for the appeal was 4 January 2006.

2. The appeal was conducted in accordance with the Tribunal's simplified procedure (Rule 28, Lands Tribunal Rules 1996). Mr Hopkins, who appeared for the appellant, is the Managing Director of Aber Roof Truss Limited, a company specialising in the design and manufacture of timber roof trusses for the building industry. The respondent Valuation Officer, Ian Christopher Guest MRICS, of the Bangor Valuation Office appeared with permission of the Tribunal. I carried out an accompanied inspection of the appeal hereditament, and external inspections of the comparables referred to in Mr Guest's report immediately after the hearing.

3. Mr Hopkins considered that the correct assessment for the appeal hereditament was £18,500, the figure that had been indicated to him in an estimate dated 13 May 2005 by MJF Griffiths of the Wrexham Valuation Office, provided in response to his request, as costings were being prepared for a proposed move of the company from smaller premises on the same industrial estate, Unit 33. Mr Hopkins did not produce a witness statement, and said he would be relying upon the submissions he had previously made to the Valuation Tribunal. The VO produced a comprehensive and detailed expert witness report that, on the basis of comparables and settlements on the estate, indicated that the VT's determination was not overstated, and that it should stand.

### **Facts**

4. The parties produced a helpful statement of agreed facts from which, together with the evidence and my inspection of the appeal hereditament and surrounding area, I find the following facts. Engineer Park is a small industrial estate located on the edge of Sandycroft, about 4 miles from the city of Chester, and 2 miles from Queensferry. The Grampian Chicken Factory and the local sewage treatment plant (both referred to as detrimental factors by the appellant) are within half a mile and 1 mile respectively from the appeal hereditament. The site was purchased by the appellant from the owners of the adjacent indoor Go-kart track in 2005 who also granted an easement over its own access road to provide two vehicular entrances onto the site. Following de-contamination works, a steel portal frame workshop was constructed extending to 787.39 sq m with 5.5 m eaves height. Two portable buildings were installed in the yard, these comprising offices and a works canteen/store, extending to 66.88 sq m. The yard, which has secure fencing to two sides and a bund (installed at the ratepayer's expense) separating it from an adjacent mobile home park, has a usable storage area of 500 sq m and 8 car parking spaces. Three-phase electricity is provided to the main, unheated, workshop and security cameras have been installed at a cost of £3,130. The property was completed, and was brought into the local non-domestic rating list, on 4 January 2006.

5. Aber Roof Truss Ltd formerly occupied, under a lease, Unit 33, Engineer Park, a semi-detached unit that had been constructed by the Welsh Development Agency in the 1980s and that was approximately half the size of the appeal hereditament, with un-insulated cladding and roof, 4.5 m eaves height and 3 parking spaces. There was an adjacent secure storage compound that had been constructed by the appellant during his occupation. Following a proposal to alter the 2005 rating list in respect of that property, the matter was settled by agreement between Mr Hopkins and the VO at £15,000 rateable value.

### **Appellant's case**

6. Mr Hopkins explained that as part of his plans to relocate the business to larger premises, his accountants required detailed project costs and estimated subsequent occupation costs to be provided. In order to forecast his likely non-domestic rates liability, he wrote to the VO enclosing plans on 12 May 2005 and asked for an estimate. On 13 May, Mr MJF Griffiths of the North Wales Group of the VO responded by letter which said, in part:

“ I refer to your letter of 12 May 2005.

I can inform you that I am informally of the opinion the 2005 Rating List rateable value for the above property, should the portable units be sited outside the main unit, would be in the region of £18,500. Should the portable units be positioned inside the unit I am informally of the opinion the 2005 Rating List rateable value would be in the region of £17,000.”

On the basis of this information, Mr Hopkins said that he went ahead with the project and, with the portable units being located outside the main workshop, anticipated a rateable value of £18,500. In reality, the hereditament was entered at £24,500, £5,500 more than the estimate. He said that the error made by Mr Griffiths was acknowledged by the VO who appeared before the Valuation Tribunal, but that did not appear to hold sway with the VT. In any event, he said, he would have appealed even if the VT had determined the value at £18,500 as there were 3 other issues that affected the value.

7. Firstly, both the new and the original premises suffered regularly from foul smells emanating from the chicken factory and from the sewage works. He had made a number of complaints to the Environmental Health department, but despite their actions, the problems persisted. Secondly, there were site security problems which the landlords had tried to resolve, but the local authority and police would not co-operate in allowing the tenants to erect barriers at the main entrance to the estate. That would, he said, have arrested the break in problems that occurred on a regular basis. In the event, he had had to install security cameras and expensive steel palisade fencing at the new premises, but that still did not prevent thieves breaking in overnight and stealing quantities of timber from the yard. Mr Hopkins explained that the raw materials for his products had to be stored in the open air, as the timber had to weather. Finally, there had also been problems with gypsies gaining access to parking areas and the streets on the estate, and setting up camp there, although he accepted that this was now less of an issue than it had historically been.

8. Mr Hopkins said that, in this appeal to the Lands Tribunal, he was not suggesting an assessment of less than £18,500, but as that had been the VO's original estimate, that was the sum that should be determined.

9. Mr Guest is a chartered surveyor, and a member of the team at the Bangor Valuation Office of the Valuation Office Agency. In his report, he said he had re-measured the floor areas of the appeal hereditament in February 2008 (which was after the VT's determination) and had agreed them with the appellant. Those areas, he said, were slightly larger than the figures that had been before the VT, hence his valuation being marginally higher, but the rental values and thus the basis of his assessment were the same. He said that Engineer Park had been constructed in the early 1980s and contained approximately 9,000 sq m of warehousing and industrial accommodation. There are 38 units ranging in size from small starter units of about 45 sq m, to larger units of about 950 sq m. Occupancy levels on the estate have, Mr Guest said, been historically high.

10. He set out the definition of rateable value on non-domestic hereditaments as set out in Para 2(1) of Schedule 6 to the Local Government Finance Act 1988, and explained that those provisions require that the appeal property be valued to reflect certain matters as they existed on the material day (4 January 2006), and by reference to values pertaining at the Antecedent Valuation Date (AVD), which for the 2005 Rating List was 1 April 2003. Mr Guest then explained the rating hypothesis, which requires rating valuations to be based upon annual rent, taking into account certain assumptions, and said that the process he had adopted followed the six propositions formulated in *Lotus and Delta Limited v Culverwell (VO) and Leicester City Council* [1976] RA 141 where J H Emlyn Jones FRICS said (at 153):

“In the light of the authorities, I think the following propositions are now established:

(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 as to time, subject matter and conditions relate to the statutory requirements...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.”

11. As the appeal hereditament was in owner occupation, Mr Guest said he started with proposition (iii), looked at (iv) which served to establish the ‘tone of the list’, and in line with propositions (v) and (vi), drew conclusions from that process. As to comparables, there were 4 units on the estate that provided direct and useful rental evidence. Unit 1 Engineer Park, Units 29-31, Units 6-8 and Unit 33 (Mr Hopkins’ former premises) indicated a range of rents in terms of main space (ITMS) of between £37.22 and £28.60 per sq m reflecting standards of construction and fit out, and whether or not they were heated. Mr Guest then looked at settlement evidence relating to 3 units on the estate, two of which were also used in his rental comparisons. Units 1, 9-10 and 33 had all either been settled or had proposals withdrawn and indicated values of £28.28 to £31.69 per sq m ITMS. Indeed, Mr Hopkins himself had agreed a settlement on Unit 33 at £31.69 per sq m ITMS. That agreement included an assessment of the yard area at £3 per sq m.

12. In his view, the settled assessments established a pattern of values, or tone of list (see *Futures London Limited v Stratford (VO)* [2005] LT ref RA/47/2005) at £28.28 per sq m for similar sized, unheated, 1980s units on the estate. In his view, an appropriate value for the subject hereditament to reflect the fact it is detached, of more modern construction and in a good location on the estate was £30.00 per sq m for the main unit, £25.00 per sq m for the portable buildings and £3 per sq m for the yard space. The valuation thus became:

Production area	787.39 sq m @ £30	£23,622
Portable buildings	66.88 sq m @ £25	£ 1,672
Storage/yard area	500.00 sq m @ £3	£ 1,500
Plant & Machinery		<u>£ 200</u>
		£26,994

Say £27,000

13. Mr Guest said that the comparable rents and agreed settlements reflected the external factors affecting all of the properties in the locality, including the fact that occupiers suffered the smells from the sewage works and the chicken factory on occasions, although steps had been taken in respect of both of those operations to reduce the problem. All units would suffer equally from the security question, and former problems with travellers had not been a recent issue. He said that it should not go without comment that these external problems had not prevented either Mr Hopkins, or indeed the occupier of Unit 1, from taking other premises upon the same estate. If those issues were having an effect on values, then they were already reflected in the passing rents. No further adjustment was therefore necessary.

14. Finally, as to Mr Hopkins’ reliance upon the estimate that had been received, Mr Guest said that the letter also contained the following caveat:

“Please note that my estimates has (*sic*) been based purely on the information you have supplied and may be subject to change following inspection and/or further information becoming available and are given entirely without prejudice to any entry being made in the 2005 Rating List.”

He said that the evidence supported his conclusions, and that whilst his valuation, based upon revised and agreed floor areas, and the inclusion of a small allowance for plant and machinery, came to £27,000, he was satisfied that the VT’s determination, on the basis of the figures that were before it, was correct.

## Conclusions

15. Mr Guest, relying as he did on the sequence of propositions referred to in *Lotus and Delta*, has clearly demonstrated in his comprehensive report that a tone of the list, which supports his valuation, has been established. It is unfortunate that the estimate that had been produced prior to Mr Hopkins’ move to the appeal hereditament was quite significantly less than the rateable value that was eventually entered into the 2005 Rating List, but I am entirely satisfied that the sum of £24,000 was not overstated, and that the VT was not in error in confirming that entry, based upon the measurements and evidence that was before it. I accept the VO’s argument that the letter containing the estimate included a clear caveat, but this factor seems to have been totally ignored by the appellant.

16. As to the external factors of which the appellant complains, I agree with the comments made by the VT where it said:

“The rents passing adequately supported the assessment, and [the tribunal] was satisfied that the Valuation Officer had taken account of and given due regard in his revised valuations, to all the disabilities contended by the appellant at the hereditament.

The Tribunal could not disregard the settlements reached on other units situated on the industrial estate, who had lodged their own appeals, concluding that the matters raised in the appellant’s submission presented no justification for the Tribunal to apply any isolated adjustment by way of allowances.”

17. There was nothing before me that could suggest the VT was wrong in its decision, and the appeal is therefore dismissed. In the light of what Mr Guest said, I confirm that the entry in the 2005 Rating List shall remain at £24,000 rateable value.

18. The case was heard under the simplified procedure, and the question of costs will only thus arise in exceptional circumstances. No such circumstances exist in this case, and I therefore make no award as to costs.

DATED 9 April 2008

Signed

P R Francis FRICS