THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal (2017 list); Local Government Finance Act 1988; Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Banqueting suite; Price per m^2 in dispute; Appeal dismissed.

RE: 61-67 Salisbury Road, Hounslow, London TW4 7NW

APPEAL NUMBER: CHG100035819

BETWEEN:	Silverdine Events Limited	Appellant
	and	
	The Valuation Officer	Respondent

BEFORE: Dr J Johnson (Senior Member authorised to sit alone)

CLERK: Mr A Johnson Tech IRRV

ON: 26 September 2022

APPEARANCES: Mr A Hair from Altus Group
(advocate and expert witness for the Appellant)
Ms A Earl (representing the Respondent)

REMOTE HEARING CONDUCTED VIA MICROSOFT TEAMS

DECISION AND STATEMENT OF REASONS

Regulations 36 and 37 of the Valuation Tribunal for England
(Council Tax and Rating Appeals) (Procedure) Regulations 2009

Summary of decision

1. This appeal was dismissed. I was satisfied that the rateable value (RV) of the subject property was reasonable. Consequently, the RV remained unchanged at £81,500 with effect from 1 December 2018.

Introduction

2. This decision notice is not intended to be an exhaustive, contemporaneous, or verbatim record of the proceedings and must not be construed in such a manner. The parties can be assured that I fully considered all of the evidence presented before coming to my decision. The absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

3. This appeal had been brought pursuant to regulation 13A of the Non-Domestic (Alterations of Lists and Appeals) (England) Regulations 2009. The appellant had challenged the Valuation Officer's (VO) decision that the appellant's proposal was not well-founded.

4. The appellant's proposal sought alteration to the 2017 non-domestic rating list on the grounds that the RV for the subject property from 1 December 2018 was not reasonable. The RV was £81,500.

5. Mr Hair appeared on behalf of the appellant as advocate and expert witness. Mr Hair declared that he was representing the appellant on a success related fee basis and he acknowledged that when presenting evidence as an expert witness, he understood and accepted that his duty was to the Tribunal regardless of whether or not the evidence supported the appellant's case.

6. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO0* [2018] UKUT (LC), I accepted the expert witness evidence on the above basis as the appeal was not considered to be complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure Regulations and was allowable due to the Tribunals' rules concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

7. It was therefore appropriate that I consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

<u>*Senior Member authorised to sit alone*</u>

8. Paragraph 10 of the Tribunal's business arrangements allows a Senior Member to consider an appeal alone where a member gives notice that he/she becomes unavailable within one working day of the commencement of the hearing.

> ***Hearings Where a Member is Unable to Sit***
>
> *"Where a panel member is allocated to a hearing and unable to sit for any reason or fails to appear, they will be replaced by another member wherever possible. However, a hearing will proceed with a Senior*

> *Member alone where a member gives notice of unavailability within one working day of the commencement of the hearing, to avoid postponing the hearing. In all other cases the hearing must be postponed unless the President directs otherwise.”*

9. My fellow panel member had provided notice within one working day of the hearing that he was unable to sit and consider this appeal. I was, in view of paragraph 10 above, satisfied that I was able to sit and consider this appeal alone.

Correction of the Appellant name

10. At the commencement of the hearing, the Clerk to the Tribunal invited me to correct the name of the appellant in this appeal. The Clerk explained that the appeal had, upon registration with the Tribunal, been incorrectly recorded as being brought by Mr Gurpreet Dhami in his personal capacity. However, Mr Dhami was a director of the appellant company, Silverdine Banqueting Limited which had subsequently changed its name to Silverdine Events Limited.

11. Neither party had any objection to this correction and I was satisfied that there was no prejudice to either party in doing so.

12. Pursuant to Regulation 11(1)(a) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, I formally directed that Silverdine Events Limited be substituted as the appellant in this appeal.

Issue

13. The issue in dispute was whether the valuation for the subject property was reasonable and, in particular, the price per m^2 to be adopted.

Summary of evidence and submissions

14. The subject property was part of a 1960s development on Salisbury Road as part of a terraced row of retail outlets. There were flats above on the first and second floors. According to Mr Hair, the appellant company’s occupation of the subject property was pursuant to a lease dated 23 March 2019 with a net rent of £55,000 per annum. Ms Earl argued that the headline rent was in fact £66,000 per annum and, as it had been agreed more than four years after the AVD and was between connected parties, it should attract less weight.

15. Mr Hair contended that the RV of £81,500 (based upon an unadjusted rate of £65 p/m^2) was excessive and he proposed a revised RV of £63,250 (based upon an unadjusted rate of £50 p/m^2). Whilst Mr Hair did not produced any rental evidence he did, within his written submission, refer me to several dwellings he had considered to be comparable. These were:

Address	2010 RV	2017 RV	% change
69-71 Salisbury Road	13,000	81,500	727%
59 Salisbury Road	6,400	6,400	0%
73 Salisbury Road	6,600	6,600	0%
53 Salisbury Road	6,400	6,400	0%
51 Salisbury Road	8,000	8,000	0%
75 Salisbury Road	6,400	6,400	0%
57 Salisbury Road	6,500	6,500	0%
55 Salisbury Road	6,500	6,500	0%

16. Ms Earl relied upon two similar hereditaments which, in her opinion, demonstrated that a RV of £81,500 for the subject property was not unreasonable. These were:

Address	ITMS M^2	Base £
61-67 Salisbury Road (the subject property)	1261.52	£65
Horizons R/O 210, Hanworth Road, TW3 3TU	541.58	£80
50-52 Bell Road, TW3 3PB	606.19	£80

17. Mr Hair argued that these two properties appeared to be newer than the subject property and were more centrally located within the town centre (whilst the subject property was located within a housing estate). Mr Hair added that the Valuation Officer had not produced any rental evidence or photographs in support of these comparable properties.

18. Although it was not advanced during the hearing Mr Hair had sought a 10% allowance for a restriction caused by the lack of parking within the shared car park due to its closure at 8pm.

Decision and reasons

19. Paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 provides that the RV of a non-domestic hereditament, none of which consists of domestic property and none of which is exempt from local 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 based upon three assumptions. These assumptions are:

(a) that the tenancy begins on the day by reference to which the determination is to be made;

(b) 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) 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.

20. This was an appeal against an entry in the 2017 rating list and so the rental levels were to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended). The material day in respect of the subject property was 1 December 2018.

21. I was guided by the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. Whilst it was not found necessary to list them, this case set out six propositions to have regard to when weighing the evidence and expert evidence.

22. Having due regard to *Lotus and Delta* I considered the passing rent for the subject property as my starting point. In doing so, I noted that the appellant had a leasehold interest in the subject property from March 2019 at £66,000 per annum (according to the Valuation Officer's records) which had been netted to £55,000 per annum by Mr Hair. This was approximately four years after the AVD which appeared to have been agreed between connected parties. The landlord was Silverdine Limited of which a Mr Jasjit Dhami was a director whilst a Mr Gurpreet Dhami was a director of the appellant company, Silverdine Events Limited. During the hearing, Mr Hair explained that he had attempted to seek clarity as to the connection between Jasjit Dhami and Gurpreet Dhami but this had not been forthcoming from his client. On balance, Mr Hair accepted that a connection between the parties was likely.

23. Given that the rent was, in all likelihood, agreed between connected parties and was approximately four years after the AVD, I placed little weight upon the passing rent of the subject property.

24. I found that the appellant's comparables did not provide any guidance as far as the RV of the subject property was concerned. This was because they were in a different mode and category of occupation, being mainly shops. I also disregarded Mr Hair's alleged increase of 727% RV between the 2010 and 2017 rating lists. This was because the AVD of these two rating lists were seven years apart and I accepted Ms Earl's submission that each rating list was separate and distinct and should stand upon its own evidence. In any case, the comparison appeared to be inaccurate given that the subject property had entered the rating list as a new hereditament from 1 December 2018 to reflect the works which had been completed in respect of it and so there was no direct 2010 rating list entry available to compare it with.

25. I also determined that no allowance was warranted due to the restricted parking issue alluded to within the appellant's submission. There appeared, from the Valuation Officer's submission, to be an additional parking provision for customers of the appellant outside of this restriction.

26. Despite the lack of photographic evidence I considered the two comparable properties provided by the Valuation Officer to be more persuasive. Whilst they may have been better located and smaller than the subject property, they were in a similar mode of occupation. They had a base rate of £80 p/m^2 and after taking account of an element of quantum (given the larger size of the subject property) I was satisfied that an unadjusted base rate of £65 p/m^2 was reasonable.

27. After full consideration of the evidence presented by the parties, I found that the appellant had not discharged its legal and evidential burden of proof to demonstrate that the RV of the subject property was unreasonable. I therefore dismissed this appeal.

Date: 3 October 2022

Appeal Number: CHG10035819

Right of appeal
Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.