THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Offices and premises; Compiled List Entry; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

Re: The Rowan Tree Riverside Tea Garden & Restaurant, Stock Lane, Grasmere, Ambleside, Cumbria, LA22 9SJ

APPEAL NUMBER: CHG100058698

BETWEEN: Grasmere Tea Gardens Ltd Appellant

and

Mr R Roberts (Valuation Officer) Respondent

PANEL: Mr I Lonsdale (Senior Member)

CLERK: Miss K Hendry IRRV (Tech)

APPEARANCES: Mr A Fowke of Altus Group (on behalf of the appellant)
Ms D Reddihough on behalf of the Valuation Officer

REMOTE HEARING on Monday 19 October 2020

Summary of decision

1. Appeal dismissed. No change was made to the rateable value.

Introduction

2. This appeal has been brought in respect of the following: The Rowan Tree Riverside Tea Garden & Restaurant, Stock Lane, Grasmere, Ambleside, Cumbria, LA22 9S which was entered in the 2017 rating list as “café and premises” at rateable value £28,000 effective from 1 April 2017.

3. The appellant’s challenge proposal to the Valuation Officer was made on 17 November 2018. The Valuation Officer’s challenge decision was given on 29 January 2020. The appellant’s appeal to the Valuation Tribunal for England (VTE) was made on 23 March 2020.

4. Following the appellant's Challenge, the Valuation Officer altered the appeal property's assessment in the rating list to £26,500 RV, with effect from 1 April 2017 to reflect agreed measurements of the floor areas.

5. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance with the Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)(arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

6. Therefore, in pursuance of regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

7. In accordance with the Tribunal's Business Arrangements, I have been authorised to consider and determine this appeal alone.

8. The appeal property is a stone built construction under a pitched slate roof. It is located on Stock Lane which is approximately 250m away from Grasmere village centre next to the river Rothay.

9. 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 before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

10. The issue for me to determine was the correct rateable value to be attributed to the appeal property in the 2017 Rating List.

Evidence and submissions

11. The appellant's representative, Mr Fowke had provided the Tribunal with both parties' submissions.

12. Mr Fowke was seeking a revised rateable value of £24,500 and relied on the following evidence and arguments;

    a. The rating assessment on the appeal property is not in line with assessments on comparable properties in the locality.
    b. Comparable properties on Stock Lane, which are in the same scheme have been valued at £240/m^2 in comparison with £260/m^2 on the appeal property.

    c. The comparable properties on Stock Lane sit in the central retail area in comparison to the appeal property which is situated at the end of the parade.

    d. The majority of the footfall is outside three outdoor equipment stores, Mountain Warehouse, Regatta Great Outdoors and Hawkshead Family Outdoor Outfitters.

These stores are located in the centre of Stock Lane. The Good Sport and Goody Blake's sits directly opposite these stores and benefit from the footfall, yet they have been valued at £240/m^2.

e. Furthermore, the appeal property was in the 2010 list at £240/m^2, and there has been no change to warrant the increase to £260/m^2.

13. To support the rateable value in the 2017 list, the Valuation Officer, Ms Reddihough relied upon the following evidence and arguments;

a. The appeal property is situated adjacent to the bridge and has an excellent outside seating area which looks out across the river to the St Oswald's Church. It is in a far superior position and is a more modern building. This is reflected by the slightly higher tone adopted of £260/m^2.

b. No evidence has been put forward to support the majority of the footfall being in the centre of the parade due to the outdoor sport shops.

c. Grasmere is a historic town. Tourists park at the bottom of the village in the car park and walk the short distance through the village towards the appeal property to the church to see William Wordsworth who once lived and is buried there. The churchyard where he is buried is directly across from the river from the tea garden and adjacent to the historic Church Bridge. Situated close to the church was the Gingerbread Shop which is another big draw to tourists.

d. The comparable properties do not offer the same views of the river. The Potted Out Café, offered no views of the river and only had small windows at the back of the subject property. There was only seating to the side and front. Goody Blakes had no frontage onto Stock Lane and had no outdoor seating or views. Baldrys Café was an irregular shape inside making it difficult to utilise efficiently. It also offered no seating outside or views unlike the appeal property.

Decision and reasons

14. I had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD) of 1 April 2015. The common date was used to ensure that every property was treated in a consistent way; otherwise similar properties would have different rateable values if numerous dates were used, as rental values fluctuated over time.

15. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended): "The rateable value 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 on these three assumptions –

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

b) the second assumption is 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) the third assumption is 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"

16. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) LVC/376/1975 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

17. The rent on the appeal property was £49,980 per annum with effect from 1 March 2012, which was well in excess of the rateable value. However, as this was a lease between connected parties little weight was attached to this by the parties and I accepted this. I had regard to the other evidence from comparable properties in the locality to provide a full picture of values in the locality.

18. Having heard from the parties, I concluded that the evidence supported the adopted value of £260/m^2. The appeal property is in a superior location in comparison with the comparable properties put forward by Mr Fowke. It was in a prime location next to the historic church bridge with views overlooking the river offered by the outdoor seating area. Ms Reddihough gave a detailed explanation of each comparable and I found that some of them did not offer an outside seating area or had irregular shapes or little windows towards the back of the property that restricted the views.

19. There was no evidence to support the majority of the footfall being outside the sports shops. I found that the major draw to Grasmere was the church as this was the resting place of William Wordsworth and therefore the appeal property was in a good location for its use as a café enjoying the footfall from the village's main coach/car park.

20. Therefore the appeal was dismissed.

Date: 27 October 2020

Appeal number: CHG100058698