VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; shop and premises; rental evidence; comparable assessments; appeal allowed in part.

RE: Ground Floor, 27-33 Bethnal Green Road, London E1 6LA

APPEAL NUMBER: CHG100063936

BETWEEN:	Urban Interior London Ltd	Appellant
	and	
	Mr A Corkish (Valuation Officer)	Respondent

PANEL:	Mr J Rockliff (Senior Member) Prof. P Catterall
CLERK:	Mrs H Beresford
REMOTE HEARING ON:	16 November 2020
APPEARANCES:	Mr C Mann of Altus Group (Appellant's representative) Mr C Cates (for the Valuation Officer)

Summary of decision

1. The appeal was allowed in part, the assessment was reduced to rateable value (RV) £99,000 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: Ground Floor, 27-33 Bethnal Green Road, London E1 6LA (the 'appeal property'), which was entered in the 2017 rating list as 'shop and premises' with a rateable value (RV) £143,000 effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Atkinsons Joiners Ltd made an appeal to the Valuation Tribunal for England (VTE). The appeal was made because the valuation officer decided not to alter the 2017 rating list following the appellant's check and challenge. The appellant had sought a reduction to RV £52,000 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the valuation officer had not made any alteration to the rating list in his challenge decision notice.

5. The appeal hereditament comprises a shop and premises with an overall area of 208m^2 it had been entered into the 2017 valuation list with an RV of £143,000 based on a main space rate of £1,000/m^2 for zone A. The subject hereditament is the ground floor of a 1960s built light industrial building. It has been converted for office use with a showroom area on the ground floor. It is located in the Shoreditch area of London, on the junction of Bethnal Green Road and Club Row.

6. The appellant's representative, when appearing as expert witness, stated that he was on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client's case.

7. The panel has accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the tribunal can admit evidence whether or not it would be admissible in a civil trial).

8. It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

9. 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.

10. 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.

11. 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 item of evidence, should not be construed as it having been overlooked

Issues

12. There were two issues in dispute. Firstly, should the appeal property be valued on the zoned or overall basis. Secondly, if it was considered that the zoned approach was correct, what zone A rate should be applied?

Evidence and submissions

13. Mr Mann, the appellant's representative, had submitted evidence which included: a written submission; photographic evidence; a location plan; a map of the comparable properties; the current 2017 assessment; and a revised valuation in respect of the appeal property.

14. Mr Mann contended that the subject property should not have been valued on a zoning basis because it is a showroom; there is no exclusive entrance into the ground floor shop area and it is not clear how to access the property, there is a sign that shows you must ring the buzzer on the exterior door. The door is locked because it also allows access to the common areas and offices on the floors above. There is a further interior door into the ground floor assessment. As well as this the ground floor is raised up by approximately two feet.

15. Mr Mann argued that the majority of shop owners would not consider this disadvantage acceptable and would therefore not be prepared to pay the same rent as they would for a shop in the same location with a normal entrance. Other retailers in the area included Sainsburys at Unit 7, 37-42 Bethnal Green Road, Byron at 34 Bethnal Green Road and Brewdog, at 51 Bethnal Green Road. All of these hereditaments had also been valued at £1,000/m^2 for zone A.

16. Mr Mann had also provided details of three comparable properties that were showrooms which had been valued on an overall basis and which he felt would be more comparable to the subject property, for example, the Leyland shop situated at 208-211 Shoreditch High Street which is valued on an overall basis at £560/m^2. He asked the panel to confirm a main space rate of £250.00/m^2 for the subject property.

17. The valuation officer had provided: rental evidence for four comparable properties; a valuation of the properties; and a response to the challenge. Mr Cates gave an oral submission in response to Mr Mann.

18. Mr Cates argued that the valuation office held a form of return (FOR) for the subject property which stated that there was a rent of £60,000 per annum, however he had attached little weight to it as it was effective 01 April 2017 and was not an arms-length transaction. He explained that valuation of the subject property had therefore been based on all other relevant rental evidence available. The valuation officer's representative also referred to the properties cited by Mr Mann. He contended that the rental evidence for the shops on Bethnal Green Road supported a main space rate of £1,000/m^2.

19. Mr Cates argued that in occupying this property, Urban Interiors (London) Ltd made use of large street level windows to display the kitchen units for sale and to attract passing trade. He also argued that the comparable properties referred to in evidence carry good weight as they are in the immediate vicinity of the subject property and have comparable retail features, such as large street level windows.

20. Mr Cates attested that a hypothetical landlord acting in his own best interest would not accept a rental bid at one quarter of the proposed rate as the appellant had suggested. He

argued that the zoning method of valuation was correct as other ground floor properties on Bethnal Green Road are valued as retail on a zoned basis at a rate of £1,000/m^2. However, Mr Cates conceded that the subject property does not have independent access like the comparable properties cited and is also larger. Therefore, a 5% allowance for access and a 5% allowance for quantum, totalling a 10% allowance, has been attributed to the property reducing the RV from £143,000 to £129,000 which Mr Cates asked the panel to confirm with effect from 1 April 2017.

Decision and reasons

21. The panel 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),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

22. 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"

23. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 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.

24. The panel noted that there was no reliable rental evidence for the subject property. The appellant's representative did not provide evidence of any rental agreement whilst the valuation officer held a FOR stating that the rent was £60,000 per annum with effect from 1 April 2017. The panel were aware that records from Company's House suggested that the director and operator of Urban Interior (London) Ltd may be from the same family as the landlord so there was a possibility that this was not an arms-length transaction.

25. After careful consideration of the evidence presented, the panel decided that due to the layout of the appeal property the valuation officer's use of zoning was not an appropriate method of valuation. It held that the disadvantages with access would exclude the majority of potential occupiers given that the door was locked, and it was necessary to ring a buzzer to an intercom system to gain entry to the property. The panel also noted that the ground floor was raised up from ground level by two feet. For these reasons the panel concluded that it was not like for like with the other ground floor properties on Bethnal Green Road.

26. Consequently, the panel was not persuaded by Mr Cates' argument that the property should be valued by the zoning method in line with other shops on Bethnal Green Road where a tone of £1000/m^2 for zone A had been adopted. The panel held that the subject property should be valued on an overall basis. It also concluded that the hypothetical tenant coming fresh to the scene would not be prepared to pay the same amount of rent for the subject property as he would for the other retail properties on Bethnal Green Road.

27. Equally, the panel was not persuaded by Mr Mann's contention that the appeal property should be valued at £250/m^2 in line with the offices on the first floor of 27-33 Bethnal Green Road, as it clearly did have retail value. However, the panel did find the evidence presented by Mr Mann to be the most compelling.

28. By devaluing 34 Bethnal Green Road (occupied by Byron) and Unit 7, 37-42 Bethnal Green Road (occupied by Sainsburys) the panel established a value of £600/m^2 for ground floor space on Bethnal Green Road. The RV for the ground floor of 34 Bethnal Green Road was £83,000 with an area of 136m^2 which devalued to £610/m^2 and Unit 7 had a ground floor RV of £137,000 with an area of 239m^2 which devalued to £574/m^2. The valuation was further supported by the Leyland shop situated at 208-211 Shoreditch High Street which is valued on an overall basis at £560/m^2 but which was situated in a less prestigious area of Shoreditch.

29. The panel did accept that the access to the subject property was hampered because the property could only be accessed by way of a buzzer and intercom system and the valuation officer had already conceded a 5% allowance for quantum. With this in mind, the panel held that an end allowance for poor access of 15% should be adopted along with an allowance of 5% for quantum.

Floor	**Description**	**Area m^2**	**Price /m^2**	**Value £**
Ground	showroom	208	600.00	124,800.00
Total		**208**		**124,800.00**
	Poor access/quantum		- 20%	24,960.00
				99,840.00
			RV say	**99,000.00**

30. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

31. 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 amend the entry in the rating list to show a revised assessment of £99,000 RV for the appeal property, with effect from 1 April 2017.

32. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Date: 27 November 2020

Appeal numbers: CHG100063936