VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Shop and Premises; accuracy of rateable value; rent passing on subject property and comparable properties; found that weight of evidence did not support a reduction in the assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed.

RE: Basement & Ground Floors, 104 Camden High Street, London, NW1 0LU.

APPEAL NUMBER: CHG100072056

BETWEEN:	Headmasters (Represented by Rupert David Ltd)	Appellant
	and	
	David Jackson (Valuation Officer)	Respondent

BEFORE: Mrs M Cole (Senior Member)

REMOTE HEARING: 9 March 2021
CLERK: James Massey
APPEARANCES: Mr P Willmore of Rupert David Ltd for the Appellant.
Mr R Bademosi for the Valuation Officer.

Summary of decision

1. Appeal dismissed. Rateable Value (RV) £61,000 confirmed with effect from 1 April 2017

Introduction

2. My fellow member was not in attendance and we had not been able to arrange for a replacement at short notice. However, the tribunal's business arrangements permitted me to hear this appeal alone.

3. This was a 2017 Rating List appeal. The RV of the appeal property was £61,000 with effect from 1 April 2017. As this was a compiled list appeal the material day was also 1 April 2017.

4. The appeal was received on 18 December 2020 against the Valuation Officer's (VO) Decision Notice of 18 August 2020 in respect of the appeal property and sought a reduction in its RV to £55,000. The VO's decision was to treat the Appellant's challenge as not well-founded.

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. This hearing was conducted via video conference using Microsoft Teams and I was satisfied that both parties were fully able to participate in the hearing.

7. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by me.

Issue

8. The issue between the parties concerned the rate per m² that should apply. Mr Willmore, for the Appellant, sought a reduction to £55,000 RV based on an unadjusted base rate of £1220.00 per m². Mr Bademosi, for the VO, sought to defend the existing RV of £61,000 which was based on the existing unadjusted base rate of £1350.00 per m².

9. All relevant factual information regarding the subject property, including its net internal area (NIA) of 136.8m^2 was not disputed by the parties.

Evidence and submissions

10. The subject property comprised Shop and Premises accommodation spread over basement and ground floors in the predominantly retail Camden High Street. It had been let on a renewal lease with effect from 12 November 2013 at an annual rent of £55,000 which Mr Willmore had analysed on a zonal basis to £1,220 per m^2 and he argued that this supported his proposed reduction to RV £55,000.

11. Mr Willmore also cited the assessed rate of £1,000 per m^2 which had been applied to the premises at Ground Floor, 102 Camden High Street. The rent passing on a new letting on this property with effect from 4 April 2014 was £95,000 per annum (pa), which had been analysed at £107,987 or £959.03 per m^2 to account for stepped rent.

12. Mr Willmore also referred to the rent agreed on Basement and Ground Floors, 106 Camden High Street. This had been agreed on a renewal lease with effect from 28 August 2015 at

£50,000 pa which analysed at £1,115.57 per m^2, but the RV on this property had been assessed at £1,350 per m^2

13. Mr Bademosi stated that in accordance with *Lotus and Delta v Culverwell (VO)* [1976] the rent on the subject property should be taken as a starting point, but it was also necessary to look at rents of comparable properties in order to obtain an accurate representation of the market at the AVD, applying the rating hypothesis. Whilst he did not disagree with the analysis of the rent on the subject property, it was agreed 17 months prior to the AVD and he considered that it was not indicative of the rent that would have been agreed in this area for this type of building at the AVD.

14. He considered that the 'basket' of rental evidence for comparable properties in the immediate locality supported the current base rate of £1,350 per m^2 for shops similar in size to the subject property in the locality. In support of this he cited the rent agreed on a new lease for 122 Camden High Street of £100,000 pa from 1 April 2014. He argued that the rent on this new letting agreed 12 months before the AVD on a larger (239.4m^2) shop had analysed to £1,601.79 per m^2 provided a strong indication that its current assessment at £1,350 per m^2 was not excessive.

15. He also asked me to consider the rent of £58,500 pa agreed on the shop at Ground Floor, 108 Camden High Street on a lease renewal with effect from 1 August 2016, which he stated analysed to £1427 per m^2. Finally, he cited the rent on Basement and Ground Floor, 106 Camden High Street, agreed on a lease renewal at £50,000 pa with effect from 28 August 2015. Based on its area in terms of zone A, this rent had analysed to £1,115 per m^2, although the property has been assessed in the 2017 Rating List at £1,350 per m^2.

16. With regard to Ground Floor, 102 Camden High Street, Mr Bademosi stated that this had been assessed as a Restaurant and Premises on an overall basis, whilst the subject property and all of the other comparable properties had been assessed as shops on the zonal basis. The analysed rent was therefore calculated using a larger area in terms of main space, which would explain why this, and thus the adopted value was lower than all the other properties cited. He asked that as it was a different mode to the subject property, I place little weight on the assessment of Ground Floor, 102 Camden High Street at £1,000 per m^2 in determining the correct RV for the subject property.

Decision and reasons

17. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let', and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

18. I had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976], as referred to by the Respondent. This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

(1) 'Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1976 the more weight should be attached to it.

(3) Where rents of similar properties are available, they too are to be properly 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 property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In 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 differing 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.

(6) 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 be clearly more difficult to reject the evidence of the actual rent.'

19. Having considered the evidence and arguments from both parties, I concluded that the rent passing on the subject property provided a starting point for the correct RV for the subject property. However, in line with the propositions outlined above, I consider that due to its having been agreed 17 months before the AVD and not a new letting, less weight should be placed on the subject rent, and that it should be considered along with rents of comparable properties in the locality to determine whether the current assessment at £1,350 is fair and reasonable.

20. I consider that little weight should be placed on the assessment of Ground Floor, 102 Camden High Street at £1,000 per m^2 in determining this appeal due to its having been assessed as a Restaurant on an overall basis rather than a shop, on a zoned basis.

21. Of the remaining analysed rents, I find that two of these are higher than the current adopted value of £1,350 per m^2, whilst the other two, including the subject rent are lower. Bearing in mind their respective distances from the AVD, and whether they are renewal leases or new lettings, I consider that equal weight should be placed on each of these rents. It would therefore appear that the rate adopted by the VO on the subject property and the comparable shops was a reasonable reflection of these differing analysed rents. Mr Willmore had argued that the highest of these, £1601.79 per m^2 was for 122 Camden High Street, and was higher than the subject property due to its location being closer to Camden Town tube station. Whilst I do consider that rents would increase in proportion to proximity to a tube station, I do not believe that difference in proximity would result in a significant difference in rents agreed on the subject property and 122 Camden High Street, particularly as there is another tube station, Mornington Crescent, at the other end of Camden High Street.

22. Having considered both parties' rental evidence and analysis for properties in the subject building and in the locality, I concluded that the unadjusted rate of £1,350.00 per m^2 of the subject property was fair reasonable. The appeal is therefore dismissed.

Date: 18 March 2021
Appeal number: CHG100072056