THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; shop and premises; price per m^2 in dispute; rental evidence; comparable assessments; appeal dismissed.

RE: 105-107 Hamlets Way, London, E3 4TL

APPEAL NUMBER: CHG100088905

BETWEEN:	Mr Syed Shakil Ahmed	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

PANEL: Mr T Rakhim (Senior Member)
Ms L Moses

CLERK: Mrs A Keohane

REMOTE HEARING ON: Wednesday 17 February 2021

APPEARANCES: Mr S S Ahmed, the appellant
Mr B Hossain, accompanied the appellant
Mr B Kangethe on behalf of the Valuation Officer

Summary of decision

1 Appeal dismissed. The Rateable Value (RV) of the appeal property remains unaltered at £15,250 with effect from 1 April 2017.

Introduction

2 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.

3 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.

4 This is a 2017 rating list appeal. 105-107 Hamlets Way, London, E3 4TL, (the ‘appeal property’), had been entered into the rating list as ‘shop and premises’ at £15,250 RV, with effect from 1 April 2017.

5 The challenge proposal was submitted by the appellant and was received by the Valuation Officer on 10 April 2019. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised assessment of £10,750 RV was proposed with effect from 1 April 2017.

6 The Valuation Officer issued a challenge case decision notice on 16 September 2020, which stated that based upon the evidence and information available, the rating list entry of £15,250 RV was considered to be reasonable and there would be no alteration to the rating list.

7 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 8 October 2020.

8 The appeal property comprises a double ground floor merged retail unit in a four-storey residential block. It is situated on a sub road off Burdett Road and within a five-minute walk, south of Mile End Station.

9 In order to assist the appellant, and with the agreement of the parties, the Valuation Officer’s representative was asked to present his evidence first.

10 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 it being overlooked by the panel.

Issue

11 The issue in dispute was the correct zone A rate to be applied in the appeal property’s rating assessment.

Evidence and submissions

12 The bundle comprised all of the documents exchanged between the parties as part of the challenge process. This included: Valuation Officer’s challenge case decision notice; rental evidence summaries; the appellant’s challenge submission; the appellant’s supporting evidence; photographs; lease details; summary valuations for comparable properties and a previous tribunal decision in respect of the appeal property.

13 On behalf of the Valuation Officer, Mr Kangethe referred to rental evidence for properties in the locality, which he considered supported the appeal property’s current rating assessment. The appeal property’s valuation was based on a zone

A rate of £320/m^2, with a 10% allowance to reflect its quality and a 5% end allowance to reflect that it was a divided/split unit. Based upon his evidence, the panel was asked to confirm the current assessment of £15,250 RV with effect from 1 April 2017.

14 The appellant contended that when valuing the appeal property, the Valuation Officer had not had sufficient regard to a previous tribunal decision, issued in July 2014, when the property's RV had been determined in line with its rent and reflective of its locality. The appeal property's rent had been £10,000 per annum (pa) and this had increased following a review in December 2019 to £13,500 pa.

15 The appellant disputed the appeal property's comparability with properties on Burdett Road; given this location commanded a good level of rent, properties situated thereon were more prominent, in a better and more desirable location, and had the benefit of higher passing footfall. The position of the appeal property on a sub road of Burdett Road, resulted in little to no passing trade and the main customer base was from the surrounding residential area.

16 Whilst the appellant accepted that Mile End Station was within a five-minute walk, the appeal property was not on a direct route from the station, nor was it visible to anyone exiting the station. He referred to more prestigious properties in superior trading locations that had been valued using lower zone A rates than that applied to the appeal property. He considered that a rating assessment had to be fair to all parties, and in this case the financial burden placed on him was unreasonable. Having regard to his evidence, the appellant considered an assessment of £10,750 RV was fair for the appeal property.

Decision and reasons

17 In arriving at its decision, the panel was governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) 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;
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> (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.

18 In respect of an appeal against an entry in the 2017 rating list, the rental levels are 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 (SI 2014 No. 2841).

19 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

20 The appellant referred to a previous tribunal decision from 2014 in respect of the appeal property's 2010 rating list assessment. This decision was based on rental evidence and economic factors at an AVD of 1 April 2008. Each rating list was separate and distinct and when a new rating list was collated, rating assessments were viewed afresh. The AVD for the 2017 rating list had been established as 1 April 2015; therefore, it was the rental evidence and economic conditions in existence at this date that the panel had to consider when determining the subject appeal. For this reason, the panel did not place any weight to the previous tribunal decision.

21 Both parties had mentioned the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of evidence:

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 1967 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 differing types of evidence depending on the one hand 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.

22 In 2016, the appeal property's rent had been £10,000 pa; this had been increased to £13,500 pa following a review in 2019. The appellant appeared to be seeking a revised rating assessment reflective of the £10,000 rent. The appellant had confirmed during questions, that he had paid this level of rent from when he first moved to the property in 2004/2005; and since 2007 nil increases had been agreed to reflect economic factors, the quality of the unit and its location.

23 In consideration of the appeal property's 2019 rent, the panel found it too distant from the AVD to be useful. Whilst the 2016 rent was closer to the AVD, it had originally been set in 2004/2005 and then subject to nil increases. The panel considered this rent did not accurately reflect the market in the locality around the AVD, which Mr Kangethe had indicated had shown small rental growth. Although the appellant had provided a copy of the rent review memorandum for the property's lease renewal, it did not confirm the full terms on which the lease had been set; therefore, the panel could not ascertain how closely it accorded with the definition of rateable value and if any adjustments were necessary. Consequently, the panel did not consider it appropriate to use this rental information in isolation to assess the appeal property for rating purposes.

24 In this case, the following rental evidence was provided:

Address	Area m^2	Rent	Analysed rent per m^2
57 Burdett Road, London, E3 4TN	103.4	£12,600 1 Apr 2015	£341.37
2 Midlothian Road, London, E3 4SE	55.15	£10,880 1 Dec 2015	£340.00
Ground Floor, 39 Burdett Road, London, E3 4TN	48.21	£12,000 1 Apr 2013	£449.10

25 The appellant argued the appeal property was not comparable to properties on Burdett Road, valued at £375/m^2. He also referred to a number of other properties, which included Mile End Road (£360/m^2), Midlothian Road (£300/m^2), Globe Road (270/m^2), Wager Street (£200/m^2), Bow Common Road (£280/m^2) and Railway Arches Ackroyd Drive (125/m^2).

26 Various properties had been quoted as comparable to the appeal property in this appeal. The panel would have found it advantageous to have had sight of a location plan showing the exact proximity of these properties to the appeal property and to Burdett Road. However, upon consideration of the available evidence, the panel found the rental evidence provided by the Valuation Officer to be the most compelling in this appeal.

27 Particular attention was paid to the new letting for 57 Burdett Road, on a full repairing and insuring basis, and of a similar size to the appeal property. The rent had been agreed between parties on 1 April 2015, the AVD for the 2017 rating list. Whilst the appeal property was situated on a sub road off Burdett Road and only around 300ft from 39 Burdett Road which had a 2013 rent that analysed to £449.10/m^2, the panel accepted the appellant's contention that the appeal property's locality was less prominent, less advantageous and did not have the same trading potential as Burdett Road. However, in the panel's view, this difference was fairly and adequately reflected in the lower zone A price of £320/m^2 adopted in the appeal property's rating assessment.

28 The panel placed less weight to the comparable properties provided by the appellant as there was insufficient evidence to confirm if they were comparable in size, nature and locality. In particular, the Railway Arches Ackroyd Drive, was identified as a workshop and its valuation would be on an industrial basis.

Mr Kangethe explained that, at the time properties on Midlothian Road had been valued, no rental evidence had been available. The rental evidence for 2 Midlothian Road, as shown above, appeared to suggest an error had been made in the value adopted for these properties. This also appeared to apply to Globe Road, as 2016 rental evidence had analysed to a figure substantially higher than that adopted in the rating assessments. With reference to properties on Mile End Road, a main parade, the comparable properties referred to by the appellant had been valued using £360/m^2; a higher rate than that applied to the appeal property, which reflected the better location. Evidence also showed that other properties on Mile End Road had assessments based on between £450/m^2 and £560/m^2.

29 Within the challenge documentation, brief reference was made to the appeal property's poor state of repair due to flooding. In the absence of any substantiating evidence in relation to this, such as photographs showing any damage, the panel did not consider this point further.

30 On balance, the panel found insufficient evidence to show that the appeal property's current valuation was unreasonable. It therefore confirmed the assessment of £15,250 RV with effect from 1 April 2017 and the subject appeal was dismissed.

Date: 5 March 2021

Appeal Number: CHG100088905