THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; showroom and premises; tone of the list; Zone A rate; end allowances; relativities; shape; width to depth ratio; building works; step access; floor levels; Decision: appeal allowed in part.

RE: Showroom at The Berkeley Hotel, 1 Wilton Place, London, SW1X 8RH

APPEAL NUMBER: CHG1001184997

BETWEEN:	H R Owen PLC	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

PANEL: Mrs L Bryning (Presiding Senior Member)
Miss S Ballentine (Senior Member)

CLERK: Mrs A Sloan

HEARING: Remote hearing No.3 on 25 January 2022

APPEARANCES: Mr P Rabbette (of Paul Rabbette Ltd for the Appellant)
Mr A Byfield (for the Respondent)

Summary of decision

1. Appeal allowed in part. The rateable value was reduced to £74,500 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of Showroom at The Berkeley Hotel, 1 Wilton Place, London, SW1X 8RH (the “appeal property”) which was entered in the 2017 rating list as ‘showroom and premises’ at a rateable value of £152,000 effective from 1 April 2017.

3. The challenge process began when the Appellant made a proposal on 14 August 2019 to the Valuation Officer (VO) on the grounds that the accuracy of the rateable value shown in the 2017 rating list was disputed. The challenge proposed a rateable value of £47,000 from

1 April 2017. The VO decided that the existing entry in the rating list was not reasonable and reduced the rateable value to £106,000 with effect from 1 April 2017. A decision notice was issued on 24 May 2021 to this affect. An appeal against that decision was lodged with this Tribunal on 17 September 2021.

4. 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. 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.

5. 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.

6. 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

7. The dispute concerned the correct valuation for the appeal property in the compiled 2017 rating list.

8. The parties had reached an agreement on the allowance of 15% to reflect disturbance from adjacent building works. This allowance was reflected in the VO's valuation at £106,000 defended by Mr Byfield and Mr Rabbette revised his valuation to £54,000 to incorporate the 15% allowance, having previously sought 20% in his proposal.

9. However, the parties were unable to agree on the correct Zone A price to be applied to the valuation. Mr Byfield asked the panel to maintain the existing Zone A rate of £1,100/m^2 used in his valuation. Mr Rabbette's valuation was based on a Zone A price of £790/m^2.

10. Further disputes concerned the relativities to be used on the valuation to reflect the value of different areas and whether end allowances should be given to address the shape and layout of the appeal property.

Decision and reasons

11. The appeal property is a car showroom which trades in luxury vehicles from its location at The Berkeley Hotel. The valuations supplied by both parties are based on retail zoning with the existing Zone A price at £1,100/m^2. Mr Byfield stated that the rent passing on the appeal property was £165,000. This rent commenced on 4 April 2015 and was therefore very close to the Antecedent Valuation Date (AVD) of 1 April 2015. The lease was agreed for a period of two years and then extended for an additional 18 months from January 2017 at the same rent. Mr Byfield stated that originally the floor area for the appeal property was measured at 208.79m^2 and the rate adopted was £1,100/m^2. He highlighted that he had analysed the rent to be £1,198/m^2 and therefore did not feel any further allowances should be given to reflect

the shape and access issues at the appeal property. Although he accepted that the measurements are now smaller, he felt that the disabilities referred to by Mr Rabbette were present before and were still present at the material date of 1 April 2017, so the rent agreed reflects those elements. He argued that, even after the size of the appeal property was reduced to 184.47m^2, the lease was renewed at the same rent. Mr Byfield explained that, if the allowances sought by the Appellant were applied to the valuation, then the area In Terms of Zone A (ITZA) would be 101.64m^2, resulting in a revised devalued rate of £1,623, rounded to £1,600/m^2. He therefore contended that the valuation of £106,000 was not excessive.

12. Mr Rabbette disputed the Zone A price of £1,100/m^2 used by the VO. He explained that the rent passing on the appeal property was agreed for a shorter than usual term because the parties were aware that the showroom would be affected by the redevelopment of The Berkeley Hotel, and it has since been deleted from the list. He stated that the Appellant's contract with Ferrari was such that the manufacturer would assist with expenses such as rent, and this could have influenced the amount of rent agreed in 2015. He explained that the Appellant company had no alternative premises available for relocation at the AVD and therefore would have been willing to pay a premium to remain in the established location. Mr Rabbette suggested that a tone had not been established in the locality as the other assessments in Knightsbridge had been based on the appeal property's rent and some of those retail units were much smaller shops which had been deleted from the rating list as they were demolished prior to the compilation of the 2017 list.

13. Mr Rabbette contended that the appeal property should not be compared to smaller units in Knightsbridge as it was not a shop but a car showroom. He pointed out that the nearest comparable showroom was the Aston Martin dealership at 113 Park Lane, Mayfair. There were two assessments for that dealership, and both had been valued on a Zone A price of £790/m^2, which Mr Rabbette argued was the best evidence on which to value the appeal property.

14. The panel considered the evidence before it on the issue of the tone to be applied in the valuation for the subject property. It acknowledged Mr Rabbette's observations that the other shop units in the vicinity were smaller, not of the same mode and category of occupation as the appeal property and their rents were agreed some time before the AVD. However, Mr Byfield had demonstrated that those units were valued on the same Zone A basis and the panel accepted that this demonstrated the desirable location in Knightsbridge. Mr Rabbette had pointed out that *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 showed that the passing rent on the appeal property should not be taken in isolation, but consideration given to other rents on comparable properties in the locality. The panel noted that Mr Byfield had provided a schedule of rents from Knightsbridge which showed that rents on other units analysed to similar figures to the appeal property and they had also been valued on £1,100/m^2. It acknowledged that the rents on those shops were agreed in 2011 and 2012, so were too far removed from the AVD to be of much assistance but they had nevertheless been considered. There were rents on other shops along Knightsbridge that had been agreed later in 2015 or early 2016, and these analysed to a higher rate, which was reflected in the tone applied of £1,850/m^2.

15. Although the panel agreed that it was preferable to compare like with like, there was no similar car showrooms in Knightsbridge. The panel was of the opinion that, although not far from Knightsbridge geographically, Park Lane, Mayfair was a different locality. Mr Byfield stated that the Zone A prices for Knightsbridge ranged from £900 to £1,850/m^2, whereas Park Lane ranged from £650 to £1,700/m^2. The rent agreed on the appeal property was negotiated close to the AVD and no evidence was before the panel to demonstrate that a

premium was agreed over the open market value for such a showroom in this location. The panel was therefore satisfied that most weight should be placed on the passing rent for the appeal property from 2015 and the Zone A price should remain at £1,100/m^2.

16. The parties had agreed a 15% allowance to reflect the adjacent building works but could not agree on the proposed additional allowances to reflect disabilities at the appeal property. Mr Rabbette stated that the showroom floor was 0.9m above street level and only had space for two cars, due to the concrete pillars restricting space. He explained that, in order to move cars in and out of the showroom, the Appellant was required to arrange overnight road and bus lane closures so that the display windows could be taken out and the vehicles moved. This was carried out approximately every three months. In addition, the front of the showroom could only be accessed via four steps or a lift for wheelchair access. Some parts of the showroom were masked by the staircase to the basement and first/mezzanine floor. Finally, Mr Rabbette pointed out that the appeal property measures 16.55m across the front, 17.26m across the back and is at its deepest 10.48m.

17. To reflect these various disabilities, Mr Rabbette sought allowances at 5% for shape, 10% for width to depth ratio and 10% for step access, in addition to the agreed 15% for adjacent building works. He highlighted that the comparable dealership in Park Lane, which was purpose built and had no issues with step access, had been valued with a 10% allowance to reflect frontage to depth ratio. Mr Rabbette also provided examples of other assessments where allowances had been given for variations in floor level, non-standard frontage, width to depth ratio and shape.

18. After considering the photographs of the appeal property and the examples of other sites where allowances had been given, the panel concluded that allowances were justified to reflect the various disabilities. Therefore, it found that the proposed allowances for shape, width to depth ratio and step access should be included in the valuation. The rateable value was reduced to £74,500 with effect from 1 April 2017.

19. Mr Rabbette asked the panel to issue a Transitional Certificate if the appeal were allowed but the panel found that it had no power to issue such a certificate, and this must be issued by the VO if required.

Description	Area (m^2)	At £/m^2	Relativities	£/m^2	Value
Zone A	60.89	£1,100	1.0	£1,100	£66,979.00
Entrance/Steps	13.14	£1,100	1.0	£1,100	£14,454.00
Zone B	56.33	£1,100	0.50	£550	£30,981.50
Zone B masked	21.47	£1,100	0.25	£275	£5,904.25
Display Window	3.28	£1,100	1.0	£1,100	£3,608.00
B1 Store NNL	6.37	£1,100	0.05	£55	£350.35
B1 Kitchen NNL	5.77	£1,100	0.05	£55	£317.35
01 Office NNL	14.02	£1,100	0.063	£69.30	£971.59
01 Office NNL/Low height	3.20	£1,100	0.063	£69.30	£221.76
Subtotal	184.47				£123,788
		Additional items			
Air conditioning	151.83	£7.00	1.0	£7.00	£1,063

Deduct	Shape	5%	£6,243
Deduct	Width/Depth	10%	£12,485
Deduct	DABW	15%	£18,728
Deduct	Steps	10%	£12,485
	Subtotal of deductions		£49,941
Total value			£74,910
Rateable Value			£74,500

Order

20. 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 alter the entry in the rating list for Showroom at The Berkeley Hotel, 1 Wilton Place, London, SW1X 8RH to show a rateable value of £74,500 with effect from 1 April 2017.

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

Refund of appeal fee

22. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date: 8 February 2022

Appeal number: CHG100118497