THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating: 2017 Rating List; Offices and premises; Complied 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: First Floor (Excluding rear), 2 Gerrard Place, London W1D 5PB

APPEAL NUMBER: CHG100126747

BETWEEN:	Saintta International Lawyers UK Ltd	Appellant
	and	
	Mr D Jackson (Valuation Officer)	Respondent

BEFORE: Mr A V Clark (Vice President)

CLERK: Ms R Muller

ON: Remote Hearing No. 3 on 8 March 2021

APPEARANCES: Mr Z Lu, Representative for the Appellant
Mr C Cates, Representative for the Respondent

Summary of decision

1. The appeal was dismissed. I found that the existing Rateable Value (RV) for the subject hereditament at £23,000 with effect from 1 April 2017 was not unreasonable.

Introduction

2. The President of the 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 relevant legislation[1]. The VTE may determine the form of any hearing.

[1] 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).

3. Therefore, in pursuance of the relevant regulation[2], 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 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 me before coming to my decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

5. This was a 2017 compiled Rating List appeal. The assessment of the subject property was £23,000 RV, with effect from 1 April 2017 and described as office and premises. For this appeal, matters that affect the physical state or enjoyment of the property or the locality were to be taken as at the material day, which was 1 April 2017.

6. In accordance with the normal procedure, the Appellant's representative presented his case first followed by that for the Respondent.

7. A check had been completed on 14 August 2019, with no change to the assessment of the appeal property. A challenge proposal was submitted on 17 September 2019 and was completed on 3 December 2020. An appeal was received by the Tribunal on 2 December 2020, made on the grounds that the valuation for the property was not reasonable. I noted that at the time when the appeal was made, Mr Lu, the Director of Saintta International Lawyers UK Ltd, had not been provided with the correct challenge decision notice, which was issued to him the day after he made his appeal to the Tribunal.

8. Mr Lu had requested that the assessment be reduced to £14,610 RV with effect from 1 April 2017. However, Mr Cates, requested that I confirm the assessment at £23,000 RV, again with effect from 1 April 2017.

9. The appeal property comprised of offices on the first floor of a four storey mid-terraced building. It had been constructed pre-1900 and was in multiple occupation, with retail accommodation on the ground floor, night club within the basement and residential dwellings on the second, third and fourth floors. The floor area of the property was agreed by the parties to be 48.7m² (ITMS).

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

Issues

11. The issue before me concerned the RV of the subject property and specifically the rate per m² that should apply.

Evidence and submission

---

[2] The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).

12. Mr Lu sought a reduction to £14,610 RV, rounded down to £14,500 RV based on an unadjusted base rate of £300 per m². In support of his assessment, he submitted his evidence pack, which included details of comparable properties in the local area.

13. Mr Cates sought to defend the existing RV of £23,000 which was based on the existing unadjusted base rate of £499 per m². In support of his assessment, he provided a copy of the VO's Challenge Case Decision Notice, and rental evidence of his comparable properties within the immediate area.

Decision and reasons

14. The appeal property 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 to the Local Government Finance Act 1988).

15. The date of the hypothetical rent was 1 April 2015, this being the antecedent valuation date (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017, the 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 paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988)) of the Act, in relation to both the physical nature of the property and its mode or category of use.

16. Mr Lu informed me that the subject property was held on a leasehold basis effective from 25 September 2014, at a rent of £21,000 per annum which he stated still showed that the assessment of £23,000 RV was too high.

17. Mr Lu stated that the current unadjusted base rate of £499 per m² applied to the appeal property was excessive and should be reduced to £300 per m². To support his figure, he presented to me with the following evidence from comparable properties in the postcode area of WC2H 7JA.

    - 5 Great Newport Street, London, WC2H 7JA, which had a base rate of £300 per m²;

    - Part First Floor and Second Floor Pt Trafalgar House and 8-9 Great Newport Street, London, WC2H 7JA where both had a base rate of £300 per m²;

    - Second Floor Trafalgar House, 8- 9 Great Newport Street, London, WC2H 7JA which had a base rate of £285 per m².

18. Mr Lu argued that the comparable properties he had provided were used as offices and similar to his property. Therefore, he requested that I reduce the base rate of his property to £300 per m², so as to produce a revised RV of £14,500.

19. I noted that even though these comparable properties were in the local area, the appeal property and the comparable properties were divided by Charing Cross Road. Therefore, the appeal property would be classed as being in a different location than that of the comparable properties. I was aware that each location within London achieved different rental values and as such, the base rate for each area will vary. I also noted that the appeal property was much smaller than that of all of the comparable properties provided by Mr Lu. However, due

to the different location of the comparable properties, limited weight could be attached to the comparables that Mr Lu had provided to me.

20. In line with the Lands Tribunal case of *Lotus and Delta v Culverwell (VO)* [1976] RA 141, Mr Cates suggested that the rent on the appeal property should be taken as a starting point, and the rent of comparable properties within the immediate vicinity should also be given weight. The basket of evidence, which included the rent on the appeal property, and the rent on four comparable properties, was in his opinion, indicative of a base rate of £499 per m² for the appeal property.

21. Mr Cates contended that the existing assessment was, therefore, correct. In support of his assessment, Mr Cates referred me to rental evidence in respect of the following comparable properties within close proximity to the appeal property, where the base rate was either £499 or £500 per m²:

   - Second Floor Egmont House, 115 Shaftesbury Avenue, London. W1D 5EW This property was smaller than the subject property at 36.48m² (ITMS). It had a new lease from 1 November 2016 and achieved a rental value of £18,000 per annum.

   - Second Floor Front 36 Gerrard Street, London, W1D 5QA. This property was again smaller than the subject property at 39.71m² (ITMS). The lease had been set from 11 September 2007, however, following a rent review on 1 January 2015, it had achieved a rental value of £29,834 per annum.

   - First to Third Floors 13 Macclesfield Street, London, W1D 5BR. This property was larger than the subject property at 57.19m² (ITMS). The lease had been set from 1 September 2013, however, following a rent review on 3 September 2018, it had achieved a rental value of £93,800 per annum.

   - First to Third Floors 40 Gerrard Street, London, W1D 5QE. This property was much larger than the subject property at 178.18m² (ITMS). The lease had been set from 1 June 2011, however, following a rent review on 1 December 2014, it had achieved a rental value of £82,000 per annum.

22. Mr Cates argued that the comparable properties he had provided of smaller and larger offices within the immediate area, fully supported the base rate of £499 per m², which had been adopted for the appeal property before applying a 5% reduction to reflect that the appeal property had no fixed source of heating.

23. Mr Cates stated that based on the rental evidence, it was his opinion that the passing rent of the appeal property (agreed on 25th September 2014) of, £21,000 per annum did not demonstrate that £23,000 RV was excessive. Therefore, he asked me to dismiss the appeal.

24. I was aware that in accordance with Lotus and Delta, the rent on the appeal property was only the starting point. It needed to be considered alongside the rental evidence of similar properties. I noted that the rent on the appeal property was agreed just over six months prior to the AVD of 1 April 2015. However, Mr Cates had provided evidence, which showed that rents had increased by some 5% in the six months to the AVD of 1 April 2015. Therefore, the rent of the subject property at AVD could have been circa £23,000 per annum at that time

25. I considered the comparable properties of Second Floor Egmont House, 115 Shaftesbury Avenue, London and Second Floor Front 36 Gerrard Street, London, which were both smaller than the subject property, were in the immediate vicinity of the appeal property and both had a base rate of £499 per m². I, therefore, accept the rental evidence provided by Mr Cates to show that the current base rate of £499 per m² was not in any way unreasonable.

26. The burden of proof rested on Mr Lu to show that the current assessment of the appeal property was incorrect which he failed to do. In the appeal before me, I hold the view that I had been provided with insufficient evidence to demonstrate that the assessment of £23,000 RV was unreasonable. Indeed it was reasonable given the circumstances.

27. Therefore, I dismissed the appeal.

Date: 17 March 2021

Appeal number: CHG100126747