THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; shop and premises; tone of the rating list; rental analysis; appeal allowed.

RE: Basement and Ground Floors, 76 Long Acre, London, WC2E 9JS ("the subject property")

APPEAL NUMBER: CHG100146489

BETWEEN:	Brompton Bicycle Ltd	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

PANEL: Mr M Smith (Senior Member)
Mr S Hooberman

CLERK: Mrs A Sloan

HEARING: Remote hearing No.1 on 14 April 2022

APPEARANCES: Mr P Tribe of Conneely Tribe (for the Appellant)
Ms D Castle (Respondent's representative)

Summary of decision

1. Appeal allowed. The panel reduced the rateable value (RV) in the 2017 rating list to £86,750 with effect from 1 April 2017.

Introduction

2. This appeal was lodged on 27 September 2021 to challenge the Valuation Officer's (VO) decision notice of 26 May 2021 which reduced the compiled list entry in the 2017 rating list from £109,000 to £92,500 RV. The appeal was made one day over the prescribed deadline but, having considered the reasons provided, the late appeal was accepted by a Vice President of the Tribunal, Mr A Clark.

3. The appeal concerns a shop located on the ground and basement floors of a period building in Long Acre. As this appeal is a challenge to the compiled list entry, the Antecedent Valuation Date (AVD) was 1 April 2015 and the effective date 1 April 2017.

Issue

4. The issue before the panel was the rental analysis and tone of the valuation list.

Evidence and submissions

5. Mr Tribe stated that he was appearing as both advocate and expert witness in these proceedings and he was appointed on a contingency fee basis. In giving expert evidence, he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported his client's case.

6. The panel 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). 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 at issue before it.

7. The panel was supplied with the evidence provided by Mr Tribe when the appeal was lodged, which included the challenge (proposal), exchanges between the parties, photographs, maps, a copy of the lease for the subject property, rental evidence on other units in Long Acre and the VO's decision notice.

8. After receiving the proposal, the VO agreed that the entry in the 2017 rating list at £109,000 RV was unreasonable and the entry was reduced to £92,500 RV from 1 April 2017. Ms Castle considered this valuation was correct and asked the panel to dismiss the appeal. Mr Tribe argued for a reduction to £86,750 RV, based on the rent passing at the subject property.

Decision and reasons

9. The issue in dispute concerned the level of value to be adopted for the subject property. The term 'rateable value' is defined in paragraph 2(1), 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".

10. The current entry in the list at £92,500 RV is based on a Zone A price of £1,900/m^2. Originally the VO had referred to a new letting from 2014 on 79 Long Acre, opposite the subject property, which had a rent devaluing to £2,263/m^2. However, it was acknowledged that the units opposite appeared to be more prominent in position than the subject property. The parties both referred to the rents on the subject property in addition to 70 Long Acre and 75 Long Acre. The VO's evidence contained a schedule of rents.

Address	**Rent**	**Date**	**Rent/m^2**	**Comments**
Grd Flr 70 Long Acre	£65,000	October 2011	£1,530	New letting
Grd Flr 70 Long Acre	£80,000	June 2016	£1,884	Rent Review
Bst-Grd Flrs 75 Long Acre	£66,500	March 2012	£1,549	New letting
Bst-Grd Flrs 75 Long Acre	£77,500	October 2016	£1,805	Rent Review
Bst-Grd Flrs 76 Long Acre *	£90,000	July 2013	£1,860	New letting
Bst-Grd Flrs 76 Long Acre *	£92,000	July 2018	£1,905	Rent Review
Bst-Grd Flr 79 Long Acre	£90,000	October 2014	£2,263	New letting

*Subject property

11. Ms Castle had devalued the rents on the subject property using a straight-line approach and considered that a Zone A price of £1,900/m^2 was fair and reasonable, resulting in the revised RV of £92,500. She clarified during the hearing that the Zone A figure for the subject property in her table of rental analysis for the 2013 rent should read £1,860 and not the £1,654 shown as this was a typing error.

12. Mr Tribe contended that the new letting for the subject property in July 2013 included a six-month rent free period. He had analysed this rent, allowing for a three-month rent free period, and produced a Zone A price of £1,767.62/m^2. He considered that the rents in the same parade as the subject property showed a steady increase from 2011 to 2018 and the rent on the opposite side of the road, for 79 Long Acre, appeared out of kilter.

13. The panel agreed that the rents should be taken from the same parade as the subject property, as this would provide the best evidence of tone in the immediate locality. It noted that there was no new letting available from close to 1 April 2015 and the nearest to that date were the June and October 2016 rent reviews on 70 and 75 Long Acre. The parties agreed on their rental analysis of these leases.

14. There was some discussion at the hearing on why the parties could not arrive at the same figures when analysing the rents for the subject property. This was partly cleared up when the typing error was highlighted in Ms Castle's submission and also when it became clear that she had adopted a straight-line approach. She accepted that some allowance could be made for the rent free period but also contended that there must be some allowance for growth between the AVD and the rent on the subject property in 2013. Mr Tribe explained that his analysis of the subject property's 2013 rent, allowing for a three-month rent free period, produced a Zone A price of £1,768/m^2. Compared with the 2016 rent on the neighbouring property, number 75, which the parties agreed analysed to £1,805/m^2, there appeared to have only been a 2% growth in rents between 2013 and 2016. He therefore considered his Zone A price of £1,780/m^2 was fair and asked the panel to reduce the RV for the subject property to £86,750.

15. In accordance with *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, the panel considered that the starting point of a valuation should be the rent passing on the subject property. In this case there were two rents available, a new letting in 2013 and a rent review in 2018. Both rents were negotiated further from the AVD than was ideal, so the panel found that rents from nearby shops in the same parade were useful in demonstrating the tone for the locality. When considering the 'basket of evidence', the panel found that the rents presented showed a gradual increase from prior to the AVD onwards for the parade.

16. The parties had each taken a slightly different approach to their rental analysis for the subject property. Ms Castle using a straight-line approach and adjusting for growth to the AVD, Mr Tribe adjusting for the rent-free period. The panel noted that the July 2013 lease on the subject property included a six-month rent free period and found that Mr Tribe was correct to adjust for the usual three-month rent free period in his valuation. Ms Castle appeared to accept at the hearing that this was the usual approach. The panel agreed with Mr Tribe that the rents available did not show a large growth in the locality and therefore it found that his Zone A price at £1,780/m^2 was reasonable and the appeal was allowed.

Order

17. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for Basement and Ground Floors, 76 Long Acre, London, WC2E 9JS in the 2017 Rating List to £86,750 RV effective from 1 April 2017.
The Valuation Officer must comply with this Order within two weeks of its making.

Refund of appeal fee

18. 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) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 4 May 2022
Appeal number: CHG100146489