THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Restaurant and premises; 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: BST & GRD FLR 8-10 Great Titchfield Street, London W1W 8BB

APPEAL NUMBER: CHG100199664

BETWEEN:	Johnson Tiles	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

BEFORE: Mr MH Smith (Senior Member) and Mr PJ Hickson

CLERK: Miss K Hendry

REMOTE HEARING: Tuesday 25 January 2022

APPEARANCES:

Mr M Hampton-Riddington of Cluttons (on behalf of the Appellant)
Ms D Castle (Respondent's representative)

Summary of decision

1. Appeal is dismissed. The panel determined the rateable value (RV) of £177,000 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. The VTE conducted the hearing of this appeal remotely via a Microsoft Teams conference call using an audio/video-link.

5. Mr Hampton-Riddington was appearing on behalf of the appellant as both advocate and expert witness. Therefore, it was important to ascertain if there was a success related fee involved and if so whether its existence was compatible with his obligations to the tribunal as an expert. This question was raised in view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

6. Mr Hampton-Riddington declared that he was not instructed under any conditional fee arrangement. He confirmed 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 the client’s case.

7. This appeal has been brought in respect of the following: BST & GRD FLR 8-10 Great Titchfield Street, London W1W 8BB which was entered in the 2017 Rating List as Showroom and premises at rateable value (RV) £213,000 effective from 1 April 2017. Following the appellant’s challenge, the Valuation Officer (VO) served a Notice to reduce the assessment to RV £177,000 with effect from 1 April 2017.

8. The appellant’s challenge to the VO was made on 29 April 2020. The appeal to this Tribunal was made on 14 September 2021 following the VO’s Decision Notice of 21 July 2021, in respect of the appeal property (hereditament). This is a compiled list appeal so the material day is 1 April 2017.

9. The appeal property is a Showroom and premises located in London just north of a T-junction where Tottenham Court Road meets Oxford Circus. Great Titchfield Steet is close to a very busy thoroughfare within the London Borough of Westminster. The thoroughfare is initially pedestrianised as it leaves Oxford Street prior to becoming a road. The closest Tube station is Oxford Circus. The net internal area of the appeal property is 234.29m^2.

10. 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 when coming to its decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

11. The correct rateable value for the appeal property, with effect from 1 April 2017

Evidence and submissions

12. The panel had been provided with a bundle of evidence, which comprised the challenge submission and VO’s Decision Notice, photographs of the appeal property, location plans and details in relation to comparable properties.

13. Mr Hampton-Riddington referred to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council* [1976] RA 141 and contended that the correct starting point was the rent passing on the appeal property.

14. The rent paid for the appeal property was £140,000 per annum (pa) from 30 October 2014. A new lease was taken where the rent remained at £140,000 pa with effect from 30 October 2019. This devalues to £597.55/m^2 compared to the rate adopted in the assessment of £750/m^2.

15. Mr Hampton-Riddington referred to available rents of similar properties to confirm the level of value indicated by the actual rent on the appeal property. Having regard to the evidence he had presented, he considered the current assessment of £177,000 RV, which was based on a main space rate of £750/m^2 was excessive. He sought a reduction to £142,000 RV, which was based on his proposed main space rate of £600/m^2.

16. Having regard to the character of the appeal property, its passing rent and the comparable properties provided, Ms Castle contended that the amended assessment of £177,000 RV was in the bounds of reasonable. Accordingly, she sought dismissal of the appeal.

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 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

18. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd* as referred to by both parties. 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 is 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 VO. 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. Bearing these six propositions in mind, the panel acknowledged that the correct starting point in this appeal was the actual rent passing on the appeal property.

20. Mr Hampton-Riddington argued that the rent passing on the appeal property was set just prior to AVD and is the best evidence. The analysed rent which devalued to £598.55/m^2 supports a lower adopted rate of £600/m^2.

21. Mr Hampton-Riddington argued that comparable properties supported a lower rate per m^2.

a) **Grd Flr 66-68 Margaret Street, London W1W 8SR**
Although the address is Margaret Street, this is a corner unit onto Titchfield Street, in a more prominent position. There has not been any check or challenge on this unit. This property had been calculated an unadjusted rate of £750/m^2.

b) **Bst Sth & Grd Flr Fishlow House, 41-42 Eastcastle Street, London W1W 8DU**

This is another corner unit with Eastcastle Street and Titchfield Street. It is situated very close to the appeal property. This property had been calculated an unadjusted rate of £750/m^2. There was a partial agreement on this property at the check stage.

22. Mr Hampton-Riddington also referred to other properties on Great Titchfield Street as follows;

Address	Area ITMS /m^2	Effective Date of Rent	Analysed Rent /m^2	Unadjusted rate of value /m^2
*8-10 Great Titchfield Street	234.30	30 October 2014	£597.52	£750
81 Great Titchfield Street	87.00	1 May 2013	£436.59	£650
67 Great Titchfield Street	85.61	8 December 2013	£496.44	£700
42-44 Great Titchfield Street	67.34	5 September 2014	£628.35	£750
33-35 Great Titchfield Street	238.91	20 March 2015	£1068.14	£900
31 Great Titchfield Street	151.75	10 September 2014	£599.67	£750
27 Great Titchfield Street	50.86	23 October 2013	£1,415.65	£900
21 Great Titchfield Street	64.00	10 September 2014	£1,211.83	£900

15-19 Great Titchfield Street	57.28	1 October 2015	£894.73	£750
18 Great Titchfield Street	110.22	4 February 2014	£716.27	£750
14 Great Titchfield Street	114.45	12 July 2013	£655.31	£900

* Appeal property

23. Mr Hampton-Riddington stated that all of the comparable properties put forward are significantly smaller than the appeal property with the exception of 33-35 Great Titchfield Street. However this property is on a more prominent position with Mortimer Street and the rent reflects the position.

24. The closest five rents to the AVD show a range in rental values from £597/m^2 to £894/m^2 with an out layer of £1068/m^2. Mr Hampton-Riddington stated that in his opinion this evidence is for much smaller units and with the rent on the appeal property, a degree of quantum should be looked at in terms of value.

25. There were also two agreements, 46-54 Great Titchfield Street which was agreed on a challenge. This was based on £750/m^2. The ground floor show room on this property is only 36.05m^2, so is very small in comparison with the appeal property ground floor show room at 155.02m^2. Mr Hampton-Riddington was not in agreement that this property was comparable to the appeal property as the main space was 117m^2 compared to the appeal property at 234m^2.

26. The second agreement was for 42 Great Titchfield Street which was also agreed at the challenge stage at £750/m^2. This only had a ground floor showroom size of 41.01m^2. Its main space size was 66.75m^2. Given the size, Mr Hampton-Riddington stated that he believed this property cannot be compared to the appeal property.

27. Mr Hampton-Riddington also referred to several agreements which had occurred on Great Portland Street. There were 13 agreements which had all been settled at £650/m^2. Great Portland Street runs parallel with Great Titchfield Street, sitting closer to Regent Street in a more prominent location, and he believed therefore supported £600/m^2 for the appeal property.

28. In defence of the current rateable value, Ms Castle explained that the appeal property had been reduced from £900/m^2 to £750/m^2 due to settlements of cases on Great Titchfield Street. In particular, 42-44 Great Titchfield Street, and 46-54 Great Titchfield Street, both settled at £750/m^2. Ms Castle stated that anything north of Riding House Street had settled at £700/m^2. The reason for this adopted rate is because the units were further away from Regent Street and Oxford Circus. As the appeal property is closer to Oxford Circus, the adopted rate of £750/m^2 is not excessive.

29. Ms Castle stated that she felt she was not able to offer anything less than £750/m^2 based on the settlements offered to the other units. However she did note that the appeal property was larger than the other units and there may be some element of quantum, but this would be reflected in the rent.

30. The detailed decision in response to Mr Hampton-Riddington's challenge stated that 33-35 Great Titchfield Street is good evidence and almost in line with the AVD. It was agreed that

there was not enough evidence to support £900/m2, however these were for much smaller units. 33-35 Great Titchfield is further north and separated by a couple of breaks in the street flow.

31. Having regard to all the evidence, the panel concluded that the reduced rate of £750/m^2 was not excessive and was not persuaded by the evidence before it to disturb the tone. The current tone was supported by settlements within the locality. The panel considered the size of the property and whilst the appeal property had a larger total significant area, the areas in terms of main space were all within 50m^2. The panel was not convinced that there was an element for quantum. This was balanced out by the location of the appeal property being closer to Oxford Circus.

32. The panel therefore dismissed the appeal and confirmed £177,000 as the correct RV with effect from 1 April 2017.

Date: 10 February 2022

Appeal number: CHG100199664