THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeals – self-contained basements – no lettings – could the properties be occupied – comparable property superior due to age and location – no services at properties – could be let – should be in Rating List at price greater than £1 – adjust comparable property price per m² to account for difference between properties - appeals allowed in part.

Re: Basement, 126-128 Stepney Way, London, E1 3BG

Basement, 124 Stepney Way, London, E1 3BG

Basement, 122 Stepney Way, London, E1 3BG

APPEAL NUMBERS:	CHG100246591	
	CHG100246579	
	CHG100246588	
BETWEEN:	Zerlan Estates	Appellant
	and	
	Mr A Ricketts	Respondent
	(The Valuation Officer)	
PANEL;	Miss S Ballentine (Senior Member)	
	Mr A Wheeler	
CLERK:	Mr A Jolly	
REMOTE HEARING:	Wednesday 24 November 2021	
APPEARANCES:	Mr A Bacon of JMA Chartered Surveyors representing the Zerlan Estates (appellant)	
	Mr C Cates representing the Valuation Officer (respondent)	

Summary of decision

1. Appeals allowed in part. The panel allow the appeals in part and determine Rateable Value (RV) £2,250 for Basement, 126-128 Stepney Way, London, E1 3BG; RV £1,350 for Basement, 124 Stepney Way, London, E1 3BG and RV £1,300 for Basement, 122 Stepney Way, London, E1 3BG with effect from 1 April 2017.

Introduction

2. The appeals have been brought in respect of the following: The appeals were received on 26 May 2021 against the Valuation Officer's Challenge Case Decision Notice dated 8 May 2021. As the evidence submitted for the appeals was the same and as the properties were within the same terrace the appeals were heard together.

3. 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.

4. 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.

5. In accordance with that Practice Statement, the panel conducted the hearing of this appeal remotely via Microsoft Teams conference call using audio/video-link. For the avoidance of any doubt, the panel was satisfied that those present at the hearing were able to fully participate in the proceedings.

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 item of evidence, should not be construed as it having been overlooked.

7. Mr Bacon appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Bacon's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

8. Mr Bacon 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 the client's case.

9. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was 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).

10. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

Issues

11. The issue before the panel concerned the RV to be applied to the appeal hereditaments.

Evidence and submissions

12. Mr Bacon stated that his client had owned the basements for many years. They had been entered into the previous Rating Lists with RVs that were at a level that no rates were paid and therefore no previous appeals had been lodged. However, for the 2017 Rating List the assessments were increased to a level where rates became payable hence the reason for the appeals.

13. Mr Bacon stated that the properties had been empty for many years and that there was no value to the properties as they could not be rented out due to their condition. He stated that they had low ceiling heights, damp, no services and that following rain, water could be found on the floor. He stated that the last occupier appeared to have been someone sleeping rough.

14. Mr Bacon stated that the only evidence submitted by the Valuation Officer was for 141-143 Cannon Street, London which he did not consider to be truly comparable as the appeal hereditaments had less value than open land storage whereas the comparable property was a newer basement with planning for retail storage.

15. Mr Bacon stated that whilst he was seeking for the RV to be reduced to £0 or £1 he had provided an alternative valuation for each assessment based on the price per m² adopted for 141-143 Cannon Street and adjusted to reflect the age and condition of the appeal hereditaments. His alternative valuations were RV £1,000 for Basement at 122 Stepney Way and Basement at 124 Stepney Way and £1,800 for Basement at 126-128 Stepney Way based on a price per m² of £30.

16. Mr Cates stated that Mr Bacon had described the appeal hereditaments as dark, lacking services, damp and with low ceiling heights which he considered was what basements were.

17. Mr Cates stated that there was no evidence provided that there was no market for the appeal hereditaments but accepted that the appellant may have chosen not to market the properties due to possible poor return. He considered that given the location it was inconceivable that there was no market for self-contained basement storage. He was of the opinion that it met the requirements of the Rating Hypothesis and therefore the properties would have some rental value.

18. Mr Cates stated that the only evidence available was the comparable property at 141-143 Cannon Street. Whilst he accepted that the property was a newer property and therefore may have a higher value than the appeal hereditaments it had been valued following a challenge at £75 per m² which was 50% of the storage value.

19. Mr Cates stated that it was a commercial decision not to let or explore the letting of the appeal hereditaments and therefore this did not translate to zero RV. He requested the panel dismiss the appeals.

Decision and reasons

20. The panel considered that no evidence had been submitted to support that there was no market for the appeal hereditaments. It considered given its location there would still be a market for this type of property, albeit due to the lack of services and access, limited. The panel therefore considered that there could be actual, beneficial, exclusive occupation that was not too transient and therefore a rental value. It did not accept that the appeal hereditaments RV should be £1 or £0.

21. The panel had been provided with only one comparable property which the panel considered was in a superior location, as witnessed by the differences in the zone A prices given by the appellant in his submission. It also considered the comparable property to be a superior property being a newer construction and had planning for retail storage.

22. In the appellant's submission he had provided alterative valuations which had been based upon adjusting the price per m² for 141-143 Cannon Street. This had been valued at £75 per m² and Mr Bacon had given an allowance of 25% for low ceiling height, 15% for poor access, 25% for location and 25% for lack of services. He arrived at a value of £26.89 which he had rounded to £30 per m² for his alternative valuation.

23. The panel agreed that the best starting point was the price per m² adopted for 141-143 Cannon Street and then to adjust that value by allowances for the differences and disadvantages.

24. As the appeal hereditaments were basements it would not be unusual for low ceiling heights and it was not proven that the appeal hereditaments were at a disadvantage when compared with the comparable property. The panel therefore did not reduce the price per m² to reflect low ceiling heights.

25. It then considered the issue of access. Access was via a door from Stepney Road, between shop entrances, into a lobby with stairs to the basement and to the flats above. The panel had not been provided with access details for the comparable property and therefore was not persuaded that an allowance should be given for poor access.

26. The panel then considered the lack of services. It understood that the premises did not have any services and therefore it accepted 25% would reflect the lack of services.

27. The panel also considered the location of the appeal hereditaments when compared with the comparable property. It accepted that Cannon Street was a superior locality and this would reflect in the rent commanded but it considered that 25% was too high and considered 15% adequately reflected the difference in locality.

28. The panel then considered the difference in condition. The comparable property appeared to be a more modern property and appeared to have different planning permissions with the comparable property having permission for retail storage. The panel considered that an allowance should be given to reflect the different age and conditions and which would be adequately reflected by a further 10% allowance.

29. The panel considered that given the differences between the comparable property and the appeal hereditaments a 50% allowance in the price per m² would reflect the differences. The panel therefore considered that £37.50 per m² was the correct price per m² to be adopted for the appeal hereditaments.

30. The panel allowed the appeals in part and determined RV £2,250 for Basement, 126-128 Stepney Way, London, E1 3BG; RV £1,350 for Basement, 124 Stepney Way, London, E1 3BG and RV £1,300 for Basement, 122 Stepney Way, London, E1 3BG with effect from 1 April 2017.

Order

31. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entries to RV £2,250 for Basement, 126-128 Stepney Way, London, E1 3BG; RV £1,350 for Basement, 124 Stepney Way, London, E1 3BG and RV £1,300 for Basement, 122 Stepney Way, London, E1 3BG with effect from 1 April 2017 within two weeks of the date of this order.

32. A refund of the paid fees will now be arranged in accordance with regulation 13E (1) (a) of the Non Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended) provided there is no review of the Tribunal's decisions. The refunds will take around six weeks to process.

Date: Tuesday 14 December 2021

Appeal numbers: CHG100246591

CHG100246579

CHG100246588