THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Statutory Assumptions; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Base Rate; End allowance; Appeal allowed in part.

Re: 17 – 19 Nelson Road, Greenwich, London SE10 9JB

APPEAL NUMBER: CHG100584242

BETWEEN:	Grind & Co. Ltd	Appellant
	And	
	Ms Dawn Bunyan (Valuation Officer)	Respondent

PANEL:	Dr John Johnson	(Chair)
	Mr Simon Hooberman	
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 1:	14 June 2022	
PARTIES PRESENT:	Saul Campbell	Altus Group, for the appellant
	Mr Rajnish Das	for the Valuation Officer

Summary of decision

1. The appeal was allowed in part. The rateable value (RV) of the hereditament was reduced to £174,000 with effect from 24 October 2018.

Introduction

2. This appeal had been brought in respect of the property at 17 – 19 Nelson Road, Greenwich, London SE10 9JB occupied by Grind & Co.

3. The rateable value was £197,000 on a base rate of £400.00/m^2 with effect from 24 October 2018.

4. The appellant appealed against the VO decision as they sought a reduction of the RV to £149,000 on a base rate of £300/m^2. In their opinion, the unadjusted rate was excessive.

5. The property is situated on Nelson Road in Greenwich village close to Greenwich University, Greenwich Meridian / Park and walking distance from The Cutty Sark. It is occupied as a restaurant and premises and was previously Jamie's Italian restaurant.

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 a 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 Saul Campbell appeared on behalf of the appellant as expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), his declaration of truth included a statement that he was instructed on a contingency fee basis. 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 the client's case.

8. 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). The panel therefore considered the expert evidence and attached such weight to it as they saw fit.

Issue

9. The RV of the hereditament.

Evidence and submissions

10. The evidence bundle submitted by the appellant comprised all of the documents exchanged between the parties as part of the challenge process, the Valuation Officer's challenge case decision notice and the appellant's challenge submission.

11. The appellant stated that the RV appears excessive when considering the rental evidence in the scheme and the locality. He submitted that the actual rent, when devalued, was £140,000 per annum or £291/m^2 and this did not relate to the current RV of £195,000.

12. The respondent Valuation Officer (VO) stated that no rental evidence had been supplied to support the reduction other than the appeal property rent. In his opinion, as the rent was set in November 2018 it was too far removed from the Antecedent Valuation date (AVD) of 1 April 2015 to carry any weight in the valuation of the appeal property.

13. He was not convinced that the evidence presented by the appellant in respect of where tones of value had been reduced on other properties was relevant as it was not submitted in conjunction with rental evidence.

14. He submitted that there was one potential comparable rent at 1 Nelson Road and a comparator for an unadjusted rate at 13 Nelson Road. However, in his opinion, not enough evidence had been submitted to amend the RV of the appeal property.

Decision and reasons

15. The panel referred to the Local Government Finance Act 1988. The term ‘rateable value’ being defined in paragraph 2(1), Schedule 6 to the Act:

    “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”.

16. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

17. In reaching its decision, the panel had regard to the Lands Tribunal judgment of Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141. This case had established six propositions giving 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 Valuation Officer. 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.

18. The panel were presented with a list of properties in the same valuation scheme as the appeal property where the VO had revised the base rate assessment in 2019 and 2020 in response to a challenge:

Address	Original £/m^2	Revised £/m^2	Scheme
55 River Gardens Walk	325	174	422667
20 River Gardens Walk	325	174	422667
5 – 6 Lambarde Square	400	280	422667
63 Greenwich High Road	350	255	422667
Anchor Iron Wharf	325	115	422667

19. In the case of 5 – 6 Lambarde Square the reduction was based on the analysed rent of £227.

20. The panel found that the appeal property was in a better location than Lambarde Square but it and the appeal property effectively both sit on the main A206 Trafalgar Road and are only a mile apart. This was evidence in support of a reduction in the appeal property base rate.

21. 55 and 20 River Gardens Walk were both reduced to the same value and, clearly, are on the same thoroughfare. The panel found that these properties were clearly not in as good a location as the appeal property. Similarly, 63 Greenwich High Road and Anchor Iron Wharf were in poorer locations than the appeal property but the panel found that this was reflected in their lesser base rate assessments. All four properties when contrasted against the £400/m^2 base rate for the appeal property provided further evidence for a reduction of the base rate of the appeal property.

22. The panel had also been presented with two properties on the same road as the appeal property in 1 and 13 – 14 Nelson Road. However, the panel found that these were both prominent corner plots and in better locations than the appeal property and this was reflected in their higher rent. 1 Nelson Road is also subject to a frontage uplift and the premises provide a conventional restaurant space whereas the appeal property has some layout issues as it was a combination of two original units, numbers 17 and 19 Nelson Road.

23. The panel also found that the appeal property was substantially larger than all of the submitted comparables and could therefore be subject to quantum.

24. The panel was aware that the valuation of non-domestic property is based on the statutory assumption of “an amount equal to the rent…..year to year” and there had been no evidence presented of lower rental agreements that would suggest that the RV of Grind should be lowered.

25. However, it was clear that the VO had decided to reduce some base rate assessments since the start of the 2017 Rating List for properties that were in the vicinity of the appeal property. These reductions provided good evidence that the appeal property base rate of £400/m^2 was too high for this type of property in this area. Limited rental evidence was presented to the

panel by both parties but the panel found that it was reasonable and appropriate to conclude that the base rate of the appeal property was too high.

26. The panel therefore found that £350/m^2 would be more appropriate as this would reflect the good location of the appeal property:-

Floor	Description	Relativity	Area m^2	Rate /m^2	Value
ground	ZA	1	26.54	350	9289
ground	ZB	1	11.33	350	3965.5
basement	Staff toilets	0	0	0	0
basement	Storage	0.25	15.13	87.5	1323.88
ground	Chill store	0.7	6.63	245	1624.35
basement	Storage	0.25	40.13	87.5	3511.38
basement	Public toilets	0.25	15.22	87.5	1331.75
ground	restaurant	1	363.07	350	127074.5
basement	office	0.35	14.88	122.5	1822.8
basement	office	0.35	5.1	122.5	624.75
ground	kitchen	0.7	35.3	245	8648.5
ground	public toilets	0.5	3.44	175	602
basement	public toilets	0.25	16.03	87.5	1402.63
ground	kitchen	0.7	26.92	245	6595.4
basement	Storage	0.25	4.76	87.5	416.5
					£168,232.9
	Canopy	96.6		28	2704.8
	Air Conditioning	452.17		7	3165.19
				Rounded	174,102.9 **£174,000**

27. The appeal was therefore allowed in part and the RV of the hereditament should be reduced from £197,000 to £174,000 with effect from 24 October 2018.

Order

28. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, S.I. No. 2269 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in respect of 17 – 19 Nelson Road, Greenwich, London SE10 9JB to an RV of £174,000 with effect from 24 October 2018.
29. A refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 4 July 2022

Appeal number: CHG100584242

Rights of appeal

Any party who is aggrieved by the Tribunal’s decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.