THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; shop and premises; price per m^2 to be adopted for the assessment; comparable evidence; rental evidence; appeal allowed.

RE: 9 George Street, Whalley BB7 9TH

APPEAL NUMBER: CHG100620365

BETWEEN James Hall And Company (Properties) Limited Appellant

and

Ms A Hitchings Respondent
(Valuation Officer)

PANEL: Mrs AE Fielder (Presiding Senior Member)
Mr FJ Rogers (Senior Member)

CLERK: Mrs H Beresford

REMOTE HEARING: 10 March 2023

APPEARANCES: Mr J Young of Matthews Goodman on behalf of the Appellant
Miss S Weston on behalf of the Valuation Officer

Summary of decision

1. Appeal allowed. The appeal property's assessment was reduced to £18,500 rateable value (RV) with effect from 1 April 2017.

Introduction

2. This is a 2017 rating list appeal in respect of 9 George Street, Whalley BB7 9TH ("the appeal property"), entered in the 2017 rating list as 'Shop and Premises' at £38,500 RV with effect from 1 April 2017.

3. The challenge proposal, submitted by Matthews Goodman on behalf of James Hall And Company (Properties) Limited, was received by the Valuation Officer on 17 February 2021. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was unreasonable. A revised assessment of £18,500 RV was proposed with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 29 April 2022 which stated that, based upon the evidence and information available, the existing rating list entry was not considered to be unreasonable. The rating list had been amended from £38,500 RV to £37,500 RV with effect from 1 April 2017 at the check stage prior to the challenge proposal. This reflected that the property had no air conditioning which the Valuation Officer had not been aware of.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was received by this Tribunal against the Valuation Officer's decision on 29 April 2022.

6. In order to assist the Tribunal, the parties had agreed all basic facts and the analysis of the competing comparable and rental evidence.

7. The appeal property is a brick built end terrace property built 1900-1918 and situated at the end of a cul-de-sac in the village of Whalley. It is included in valuation scheme 411669 which relates to convenience stores situated in Lancashire.

8. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC) the appellant's representative, Mr Young, when appearing as expert witness, stated that he was not on a conditional fee arrangement.

9. This hearing was held remotely via Microsoft Teams

10. This Tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

11. The disputed issue related to the main space price to be adopted. The Valuation Officer argued for a price of £110/m^2 resulting in an RV of £37,500 whilst the appellant's representative contended that £52.60/m^2 resulting in an RV of £18,500 was fair and reasonable.

Evidence and submissions

12. The bundle of evidence comprised the documents exchanged between the parties as part of the challenge process which included amongst other things; the appellant's challenge submission and full supporting information; the exchanges of evidence between the parties; site and location plans; the Valuation Officer's challenge case decision notice, assessment evidence; photographs and details of the appeal property and a copy of the proposed valuation submitted by Matthews Goodman.

Decision and reasons

13. 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 be let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988).

14. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841), the date of the hypothetical rent was 1 April 2015 the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

15. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

16. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell* (VO) [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

17. The starting point for consideration was the actual rent passing on the appeal property. Mr Young argued that the rent passing on the appeal property of £17,500 which had been agreed at review on 12 June 2015 was the best evidence, and the Tribunal need not look any further. However, Miss Weston contended that little weight should be attached to the actual rent, as it was out of kilter with other rents in the area. She also argued that in the 2010 rating list the RV had been agreed by the appellant's representative Matthews Goodman LLP at £31,250, reflecting an unadjusted rate of £90/m^2.

18. With respect to the RV of the appeal property in the 2010 rating list, the panel was aware that this list was a separate entity and not relevant to the RV in the 2017 rating list.

19. In terms of rental evidence, Miss Weston referred to Bridge Stores Limited, Edisford Road, Clitheroe BB7 2LT which was occupied by Spar. This property had a rent of £50,000 per annum based on a rent review on 1 December 2016 and an adopted rate of £109/m^2 . Miss Weston also referred to three comparable assessments which included Bridge Stores Limited, Edisford Road, Clitheroe BB7 2LT which had an adopted rate of £100/m^2; Co-op, 60 King Street, Whalley, Clitheroe BB7 9SL which had an adopted rate of £180/m^2; and Co-op, John Street, Haslingden, Rossendale BB4 5QB which had an adopted rate of £110/m^2.

20. The panel considered this evidence but did not find it to be persuasive. In particular, it noted that the rent relied upon by the valuation officer had been agreed over 18 months after the AVD, compared to the rent on the appeal property which was a rent review of an arms length lease with the landlord being professionally represented. The panel found that the Valuation Officer had failed to take into account the disadvantages suffered by the appeal property in comparison to the rental evidence on Bridge Stores Limited.

21. The appeal property was an older property situated at the end of a cul-de-sac, not predominantly on a through road, with no dedicated car park and limited customer parking whereas Bridge Stores Limited was on a main road with parking for approximately 20 cars. The panel was also aware that the appeal property had recently been sold and a new 15 year lease had been agreed at £18,500 on 12 June 2021. Consequently, given the rental evidence on the appeal property, the panel found that a hypothetical tenant coming fresh to the scene would have been very unlikely to agree an open market rent of £37,500 for the appeal property at the AVD.

22. In this case, the panel determined, that the rental evidence for the appeal property provided the best evidence and decided that an unadjusted base price of £52.60/m^2 was fair and reasonable. A revised valuation of £18,500 was determined as follows:

Floor	**Description**	**Area m^2**	**Factor**	**£m^2**	**Value**
Ground	Sales	297.20	1	£52.60	£15632.72
Ground	Storage	33.60	1	£52.60	£1767.36
First	Office	11.50	0.05	£2.63	£30.25
First	Storage	5.40	0.05	£2.63	£14.20
First	Mess	12.60	0.05	£2.63	£33.14
First	Staff Toilet	3.10	0.05	£2.63	£8.15
First	Staff Toilet	3.10	0.05	£2.63	£8.15
First	Plant Room	2.40	0.05	£2.63	£6.31
	Sub Total	368.90			£17,500.28
	Air Con	150		£7.00	£1,050
	Total value				**£18,550.28**
	Revised RV £				**£18,500**

RV, say, £18,500 with effect from 1 April 2017

Order

23. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list to show a revised assessment of £18,500 RV for the appeal property, with effect from 1 April 2017.

24. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

25. 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: 27 March 2023

Appeal Number: CHG100620365

Right 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.