THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating; 2017 Rating List; Club 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: 2 Empire Mews, Stanthorpe Road, London SW16 2BF

APPEAL NUMBER: CHG100199664

BETWEEN: Frances Strachan Appellant

and

Mr A Ricketts Respondent
(Valuation Officer)

BEFORE: Mrs A O Adeola (Senior Member) and Miss E Antrobus

CLERK: Miss K Hendry

REMOTE HEARING: Monday 11 September 2023

APPEARANCES:

Mr A Stevenson of Hampton Lovett Consultant Surveyors Ltd (on behalf of the Appellant)
Mr A Byfield (Respondent's representative)

Summary of decision

1. Appeal is dismissed. The panel determined the rateable value (RV) of £69,000 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: 2 Empire Mews, Stanthorpe Road, London SW16 2BF which was entered in the 2017 Rating List as club and premises at rateable value (RV) £77,000 effective from 1 April 2017.

3. Following the appellant's challenge, the Valuation Officer (VO) reduced the assessment to RV £69,000 with effect from 1 April 2017.

4. The appellant's challenge to the VO was made on 13 July 2021. The appeal to this Tribunal was made on 21 April 2023 following the VO's Decision Notice of 22 December 2022, in respect of the appeal property (hereditament). This is a compiled list appeal, so the material day is 1 April 2017.

5. The appeal property was a single storey building of brick construction under a pitch roof built in the 1940's. Internally the space is open plan with suspended ceiling and inset lighting. The building has air conditioning.

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

Issue

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

Evidence and submissions

8. The bundle provided contained the parties' respective cases and supporting documents.

9. Mr Stevenson sought a reduction in rateable value to £46,000 based on the basic rate being reduced from £105psm to £70psm. In support of a reduced basic rate, he referred to comparable properties which were smaller and had a lower basic rate. He also sought for an allowance of 10% for the quality of the property.

10. In response Mr Byfield stated that he had reduced the basic rate to £90psm and had added 5% for air conditioning which resulted in an adopted rate of £94.50. This equated to a rateable value of £69,336, rounded to £69,000 RV.

Decision and reasons

11. 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.

12. 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.'

13. 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.

14. Mr Stevenson argued that the base rate should be reduced further as the appeal property did not have access to car parking and there was not much footfall due to poor access to public transport. He described the appeal property as more of a 'destination location'. It was not considered to be a busy nightclub, but a jazz club with tables which restricted the number of people in the venue. He provided comparable properties which were in the same scheme as the appeal property and were smaller with a lower base rate.
Mr Stevenson was also seeking a 10% end allowance due to the property being affected by asbestos.

15. Mr Byfield argued that the comparable properties provided were too far away from the appeal property, some being 48-50 miles away and in his opinion were not considered to be comparable to the appeal property. He contended that these types of properties carry their own market, and this varies from location to location, they could be community based or High Street based. In terms of the appeal property, it is located within close proximity to a High Street but was tucked away. Mr Byfield contended that this was the reason why he had reduced the rate to compensate for the appeal property's location. But he had not reduced it further because there was adequate car parking within close proximity to the appeal property.

16. Mr Byfield argued that asbestos does not affect the rental value, and he considered it to be a repair issue which could be made correct if chosen. If they chose not to remove the asbestos, then it would not pose a problem if not disturbed.

17. No rental details were provided for the appeal property, therefore the panel considered the comparable properties provided by Mr Stevenson.

18. Having regard to all the evidence, the panel concluded that the reduced rate of £94.50psm was not excessive and was not persuaded to reduce it further to £70psm as being sought by the appellant's representative. The comparable evidence provided was held to be too far away from the appeal property in different locations. The panel also found little evidence to

support that a further reduction should be given for the lack of parking or the quality of the build.

19. The panel therefore dismissed the appeal and confirmed £69,000 as the correct RV with effect from 1 April 2017.

Date: 29 September 2023

Appeal number: CHG100199664

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.