THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; challenge against compiled list entry; shop and premises; accuracy of rateable value; comparable assessments; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

RE: Ground Floor North,76A Chancery Lane, London WC2A 1AA

APPEAL NUMBER: CHG100726875

BETWEEN:	Honourable Society of Lincolns Inn and	Appellant
	Mr A Ricketts (Valuation Officer)	Respondent

PANEL: Ms R Sharma (Senior Member)

CLERK: Miss F Willson

REMOTE HEARING ON: 28 July 2023

APPEARANCES: Mr M Hampton-Riddington for Cluttons (on behalf of the appellant)
Mr C Cates (on behalf of the Valuation Officer).

Summary of decision

1. Appeal dismissed. The rateable value (RV) of Ground Floor North,76A Chancery Lane, London WC2A 1AA (subject property) is confirmed at £45,000 with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal in respect of the subject property which arises from a challenge made by the appellant's representative on 7 September 2021. The challenge was in respect of the entry in the rating list at £51,000 RV as 'shop and premises' effective from 1 April 2017. The appellant sought a revised assessment of £32,500 RV based on a tone of

£800/m^2. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was well founded and a decision notice reducing the zone A rate to £1,100/m^2 and an RV of £45,000 was issued on 27 February 2022.

3. Mr Hampton-Riddington 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 Hampton-Riddington stated that he was not instructed under a conditional fee arrangement. 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 his client's case.

4. I 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). I therefore considered the expert evidence and attached such weight to it as it saw fit.

5. The subject property comprises a ground floor shop constructed between 1900 and 1918. It is situated in a mixed use building over three floors on the West side of Chancery Lane close to the junction with High Holborn with a total area of 52.53m^2.

6. A second panel member had been allocated to this hearing. However, on the morning of the hearing the clerk was advised that they were no longer able to sit to hear this case.

7. I referred to the Valuation Tribunals Consolidated Practice Statement Part 1 Tribunal Business Arrangements paragraph 11 "Hearings where a member is unable to sit": -

   "Where a panel member is allocated to a hearing and unable to sit for any reason or fails to appear……. a hearing will proceed with a Senior Member alone where a member gives notice of unavailability within one working day of the hearing, to avoid postponing the hearing."

8. I duly proceeded alone.

9. This hearing was held remotely via Microsoft Teams.

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

Issue

11. The issue in dispute was the zone A to be adopted for the subject property which the VO submitted was not unreasonable at £1,100/m^2. The appellant's agent submitted that a reasonable zone A was £800/m^2.

Evidence and Submissions

12. The evidence bundle before me comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton

arguments, expert witness statements and photographs of the subject property and other shops in its immediate locality.

13. The appellant's representative submitted that the appeal should be allowed, and the RV on the subject property should be reduced to £32,500 based on a zone A price of £800/m^2.

14. Mr Cates requested that the tribunal dismiss the appeal and confirm the RV of £45,000 with effect from 1 April 2017

Decision and Reasons

15. 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 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be 'vacant and to let' and in the state set out in Schedule 6 of paragraph 2(7) to the Act, in relation to both the physical nature of the property and its mode or category of use.

16. The panel had regard to the Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141, as referred to by both parties. This case had established six propositions, which gave authoritative guidance on the weight to be attached to rental and assessment evidence, 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.'

17. The RV on the subject property was disputed by the appellant on the basis that there were two rental agreements on the subject property on either side of the AVD which allowed the rent at the AVD to be ascertained. The lease dated 29 September 2012 had a rental price of £29,000 (base rate of £708.18/m^2). The rent review dated 29 September 2017 increased the rent to £36,000 per annum (with a base rate of £879.12/m^2). This he submitted using a straight-line appreciation methodology supported a zone A rate of £800/m^2. Mr Hampton-Riddington submitted that in the case of *Lotus v Delta* any rental evidence on the subject property was the first type of evidence and carried the most weight in the basket of evidence.

18. Mr Hampton-Riddington further referred me to the rental evidence on a neighbouring property Gnd Floor South 76 Chancery Lane which had a lease dated 18 April 2013 with a rental price of £23,000 per annum (which analysed to £664.16/m^2). A rent review carried out on 18 April 2018 set a rent of £27,600 per annum (analysed to £797.00/m^2). Again, assuming a straight-line appreciation methodology this evidence supported a zone A rate of £800/m^2. This property was comparable with the subject property being the neighbouring property to the subject property. This he submitted would according to *Lotus v Delta* carry weight in the basket of evidence.

19. I noted the rental evidence on both the subject property and the comparable property but the dates of all the leases were removed from the AVD and I therefore placed little weight on them.

20. Mr Cates on behalf of the VO submitted that the rental evidence on the subject property was the first type of evidence added to the basket of evidence. That, however, was only a starting point and not the sole basis for determining the RV of a property. He also argued that in the case of both the subject property and the neighbouring property they did not fit with the rating hypothesis as they contracted out of the 1954 Act as the lease did not have 'a reasonable prospect of continuance' and would require an adjustment to the rent to allow for that.

21. He further drew my attention to the comparable properties put into evidence by the LO. The rents of six comparable properties being shops in the locality of the subject property analysed to between £990.49/m^2 to £1,341.28/m^2. These supported the subject property zone A rate of £1,100/m^2 which was not at the top end of the zone A prices. Mr Cates submitted that the rent on the subject property and the adjoining property were in fact outliers in relation to the tone in the area for shops and so should be given less weight when determining the RV of the subject property.

22. I was aware that the basket of evidence required to demonstrate a tone relied on taking account of similar neighbouring properties. Those rentals presented by the LO demonstrated a tone had been established for the area and the subject property zone A rate of £1,100/m^2 fitted into that tone.

23. The persuasive or legal burden of proof was on the appellant to prove his case and I found that he had not discharged that burden. I found that I had been provided with evidence to suggest that the tone of the subject property of £1,100/m^2 was reasonable. I was not persuaded by the appellant's comparable properties as they had markedly lower analysed rent and deviated from the rating hypothesis.

24. I therefore dismiss the appeal and confirmed the RV at £45,000 with effect from 1 April 2017.

Date: 7 August 2023

Appeal number: CHG100726875

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.