

THE VALUATION TRIBUNAL FOR ENGLAND



Non-domestic rating appeal (2017 list); Local Government Finance Act 1988; Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal allowed in part.

RE: 69-71 Queen Street, London, EC4R 1EE

APPEAL NUMBER: CHG100774608

BETWEEN: Homeslice Cannon Street Limited Appellant

and

The Valuation Officer Respondent

PANEL: Mr M Heslop-Mullens (Chairman)
Mrs A Taylor

CLERK: Mr A Johnson Tech IRRV

ON: 3 July 2023

APPEARANCES: Mr A S Campbell (of Altus Group, representing the Appellant)
Ms D Castle (representing the Respondent)

REMOTE HEARING CONDUCTED VIA MICROSOFT TEAMS

DECISION AND STATEMENT OF REASONS

*Regulations 36 and 37 of the Valuation Tribunal for England
(Council Tax and Rating Appeals) (Procedure) Regulations 2009*

Summary of decision

1. This appeal was allowed in part.
2. The panel found that a rateable value (RV) of £76,000 was reasonable, based upon an unadjusted rate (UAR) of £450.00 p/m².

Introduction

3. This decision notice is not, and does not purport to be, a verbatim record of the proceedings.
4. This appeal had been brought pursuant to regulation 13A of the Non-Domestic (Alterations of Lists and Appeals) (England) Regulations 2009. The subject property entered the 2017 non-domestic rating list with effect from 13 October 2017. It was described as a purpose-built retail unit on the ground floor of a new building complex (with office accommodation above it) in the City of London. It is occupied as a 'restaurant and premises' measuring 217.4m². The Appellant's proposal had sought alteration of the 2017 non-domestic rating list on the grounds that the RV of £84,000 (based upon a UAR of £500 p/m²) from 13 October 2017 was not reasonable. The Appellant was seeking a reduction to £63,500 (based upon a UAR of £375 p/m²). The Appellant had challenged the Valuation Officer's (VO) decision that the proposal was not well-founded.
5. The representatives of both parties stated that they were appearing in dual roles of advocate and expert witness. Mr Campbell declared that he was representing the Appellant on a contingency fee basis and he acknowledged that when presenting evidence as an expert witness, he understood and accepted that his duty was to the Tribunal regardless of whether or not the evidence supported the Appellant's case.
6. Mindful of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT (LC), the panel accepted the expert witness evidence on the above basis as the appeal was not considered to be 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 concerning admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).
7. It was therefore appropriate for the panel to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the issue before it.

Issue

8. The issue in dispute was the correct RV for the subject property. The Appellant had sought a reduced RV of £63,500 (based upon a UAR of £375.00 p/m²). Factual matters, such as the floor areas, were not in dispute.

Summary of evidence and submissions

9. The evidence before the panel comprised of the information and documents which had been disclosed and exchanged by the parties as part of the challenge process.

Decision and reasons

10. This was an appeal against an entry in the 2017 rating list and so 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. The material day (the date by which physical factors must be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (as amended). The material day in respect of the subject property is 13 October 2017.
11. The panel was guided by the leading judgment in the Lands Tribunal case of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. Whilst it was not found necessary to list them, this case set out six propositions to have regard to when weighing the evidence.
12. The starting point for consideration would be the actual rent passing on the subject property. This was a new letting from 13 July 2017 at £100,000 per annum for a term of ten years. This had been analysed by Mr Campbell to £435.63 p/m² whilst the VO had analysed it to £795.00 p/m². A UAR of £500 p/m² had been adopted.
13. The panel was presented with a significant amount of rental and comparison evidence. Upon review, it found that the best evidence to determine this appeal was provided by new properties which were close to the subject property. Specifically, these were Units 1-5 Bloomberg Arcade and Units 2-8 Bloomberg Arcade. Units 1-5 was the subject of a new lease which commenced in September 2017 for £300,000 per annum. It was 678m² in size and had a UAR of £375 p/m². Units 2-8 was the subject of a new lease which commenced in January 2018 for £155,000 per annum. It was 217m² in size and had a UAR of £600 p/m². This evidence and the overall basket of evidence demonstrated to the panel that a UAR of £450 p/m² for the subject property was reasonable. This, it is understood, produces a RV of £76,000 (when rounded).
14. This appeal was therefore allowed in part.

Order

15. In accordance with regulations 38(4) and 38(9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, this Tribunal orders the Valuation Officer to alter the valuation list within two weeks of the date of this order to show the entry in the rating list for the subject property to £76,000 RV with effect from 13 October 2017.

Refund of appeal fee

16. The Appellant is entitled to a refund of the appeal fee in accordance with regulation 13E of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009. This will be refunded as soon as possible.

Date: 13 July 2023

Appeal Number: CHG100774608

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.