THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Shop and Premises; accuracy of rateable value; rental and comparable evidence considered; found that weight of evidence supported current zone A rate for location of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed.

RE: 37, King William Walk, London SE10 9HU

APPEAL NUMBER: CHG100786592

BETWEEN:	Paul Rhodes Bakery Limited (Represented by Altus Group) and	Appellant
	Andrew Ricketts (Valuation Officer)	Respondent

PANEL: Mr A Ramsay (Senior Member)
Mr M Bhatti

REMOTE HEARING: 22 January 2024

CLERK: Mr J N Massey

APPEARANCES: Mr M Parvin of Altus Group for the Appellant.
Mr J Humphreys for the Valuation Officer.

Summary of decision

1. The appeal was dismissed. The panel determined a zone A rate of £850 per m² for the subject hereditament was reasonable and confirmed the RV at £26,750 with effect from 11 March 2020.

Introduction

2. This was a 2017 Rating List appeal. 37, King William Walk, London SE10 9HU (“the subject property”) had been entered in the 2017 rating list as ‘Shop and Premises’ at a RV of £26,750 with effect from 11 March 2020.

3. The challenge proposal was submitted by Altus Group on behalf of Paul Rhodes Bakery Limited and was received by the Valuation Officer on 18 March 2022. It had been made on the grounds that the RV shown in the rating list on 11 March 2020 was wrong. A revised RV of £18,250 was proposed with effect from 11 March 2020.

4. The Valuation Officer issued a challenge case decision notice on 2 May 2023, which stated that based upon the evidence and information available, the rating list entry of £26,750 RV was considered to be reasonable and there would be no amendment.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 6 July 2023.

6. The subject property comprises a retail premises situated on the basement and ground floor in a building of masonry construction on the corner of King William Walk and College Approach in Greenwich. The survey details and area of the subject property of 70.16m^2 (31.33m^2 in terms of zone A (ITZA)) are agreed by the parties.

7. Mr Parvin and Mr Humphreys appeared 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 Parvin declared that he was instructed on a contingency fee basis. He stated 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 it saw fit.

9. The statement of truth signed by Mr Humphreys confirmed that he was not instructed under any conditional or other success-based fee arrangement.

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

Issue

11. The issue between the parties concerned the RV of the subject property and specifically, the zone A rate per m^2 that should apply. The appellant sought a revised valuation of RV £18,250 based on a zone A rate £580 per m^2 with an uplift of 5% for return frontage. The respondent defended the current valuation of the subject property at RV £26,750, based on a zone A rate of £850 per m^2.

Evidence and Submissions

12. The evidence bundle before the panel 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 location maps and photographs of the subject premises and other retail premises in its locality.

13. Mr Parvin considered that the subject property was mostly located on College Approach, rather than on King William Walk and should be valued in line with similar retail properties on College Approach at a zone A rate of £580 per m^2.

14. Mr Humphreys referred to the location of the subject property on the corner of King William Walk and College Approach. He considered that it was in an advantageous and prominent position in relation to local facilities and attractions, and this was reflected by the adopted Zone A rate of £850 per m^2.

Decision and reasons

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

> “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;
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> 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. The material day (the date by which physical factors have to be taken into account) was provided 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 11 March 2020.

18. The appellant had referred *to Lotus and Delta v Culverwell*. This Lands Tribunal judgment 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.

19. The subject property was let on a lease renewal with effect from 12 June 2018 for an effective rent of £33,767 per annum (pa). The appellant's representative considered that little weight should be attributed to this rent as it had been agreed over three years after the AVD, and more weight should be placed on the rents on comparable properties agreed closer to the AVD.

20. The respondent had also referred to the rent of £30,000 pa for the subject property set out in a Form of Return (FOR). This was regarding a ten-year lease effective from 24 June 2013 and he had analysed this rent to a zone A rate of £912.64 per m^2. He had also analysed the June 2018 rent for the subject property to a zone A rate of £1077.78 per m^2. Mr Humphreys stated that in his expert opinion and from experience in the area, retail rents in Greenwich did not decrease between June 2013 and the AVD, and he considered that the rent agreed in June 2013 supported the adopted zone A rate for the subject property.

21. The panel noted that apart from their remoteness from the AVD, the two rents agreed on the subject property were reasonably clean, requiring little adjustment to comply with the statutory assumptions. In considering the level of rent achieved for the subject property two years prior to, and three years after, the AVD, the panel noted that the appellant had not suggested a fall in rents during this period, or provided any evidence of such a fall. It therefore considered that the subject rents indicated that the zone A rate of £850 adopted by the respondent was not excessive.

22. The appellant's main argument with regard to the value attributed to the subject property lay with its location. He stated that it was separated from the main retail area on King William Walk by residential properties, whereas it was adjacent to retail properties, particularly 8, 9 and 10 College Approach, which had all been valued much lower at a zone A rate of £580 per m^2. In referring to photographs of the subject property, he pointed out that its frontage on College Approach was longer than that on King William Walk and there was a secondary entrance to the property on College Approach.

23. In support of a reduction, Mr Parvin also referred to 23 King William Walk, which he considered to be comparable in size to the subject property but located in a more valuable stretch of King William Walk, adjacent to the entrance to Greenwich Market. Whilst this property had been assessed at a zone A rate of £875 per m^2, he referred to its rent, effective 25 June 2015 of £24,000 pa which was analysed to £734.62 per m^2. He argued that this rent indicated that the current zone A rate adopted for the subject property was excessive.

24. The respondent had originally analysed the rent on 23 King William Walk at £918.27 per m^2, but after checking his records, Mr Humphreys accepted that an error had been made and the appellant's analysis of £734.62 per m^2 was correct. However, he considered that the subject property was situated in a superior location which would result in a higher rental value than 23 King William Walk.

25. The panel recognised the marked effect of location on rental values, particularly in this location. The respondent had provided a location plan and external photographs of the subject property, which demonstrated to the panel the subject property's proximity to and visibility from, the Old Royal Naval College (now Greenwich University), the entrance of which was opposite the subject property. It also noted its proximity to the Cutty Sark, the entrance to the Greenwich Foot Tunnel and Greenwich Pier, and that King William Walk was the main thoroughfare to reach Greenwich Park from these locations. The panel noted also that the subject property had a substantial glazed frontage on King William Walk, and

its main entrance was on the corner of both streets. It also noted that as well as an entrance via Turnpin Lane off King William Walk, Greenwich Market was also accessed via College Approach.

26. Overall, the panel considered that these factors ensured that the subject property was in a very prominent position, ensuring maximum footfall from students, tourists and shoppers alike. On this basis it considered that it was in a more valuable position on King William Walk than 23 King William Walk, and that this was demonstrated to a large extent by the rents agreed for the subject property in 2013 and 2018.

27. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the case before it, the panel concluded that he had failed to produce sufficient evidence to justify his claim that the zone A rate of £850 per m^2 applied to the subject property was excessive. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated, and the appeal was dismissed.

Date: 19 February 2024

Appeal number: CHG100786592

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.