

THE VALUATION TRIBUNAL FOR ENGLAND



Non-Domestic Rating Appeal; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Shop and premises; zone A value; appeal allowed in part.

RE: 24-26 Great John Street, Lancaster LA1 1NG

APPEAL NUMBER: CHG100849110

BETWEEN: Ronald Holmes (Lancaster) Ltd Appellant

and

Ms A Hitchings Respondent
(Valuation Officer)

PANEL: Mr S Chappell (Presiding Senior Member)
Dr T Webb (Senior Member)

CLERK: Mr R Gath IRRV Hons

REMOTE HEARING on 22 January 2024

APPEARANCES: Mr L Worthington from Business Rates Hub Ltd (Appellant's representative);
Mr U Ali (Valuation Officer's representative)

Summary of decision

1. Appeal allowed in part. The panel concluded that the main space price should be reduced to £215 per m². The resultant rateable value (RV) was £30,750 effective from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 5 September 2022. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 17 May 2023 and his representatives then appealed the VO's decision to the Tribunal on 4 July 2023 on the grounds that the current valuation for the hereditament was not reasonable, under

Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The appeal property was valued as a shop and premises. It had a total area of 178.30m², 145.08m² in terms of zone A (ITZA). It was located on the corner of Gage Street and Great John Street in Lancaster city centre.
4. Mr Worthington appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a success fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Worthington's declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.
5. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).
6. Mr Ali confirmed that he was representing the VO as advocate and expert witness.
7. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

8. The issue in dispute before the panel was the correct value to be applied to the appeal property. Mr Worthington had sought a reduced entry of £28,500 RV based on an unadjusted zone A rate of £200/m². A few days before the hearing Mr Ali offered a reduction of the RV down to £31,246 based on an unadjusted zone A rate of £230/m². However, Mr Worthington rejected this offer.

Evidence and submissions

9. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included the parties' comparable properties, a location map, photographs of appeal property and comparable properties and their skeleton arguments.

Decision and reasons

10. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO)* and *Leicester City Council* [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The

assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

11. The rent for the appeal property was agreed in 2009 initially on a 10 year lease which was ongoing. The panel noted that there had been a lease renewal in 2014. However, it included other assessments, 24 Great John Street and 7 Gage Street, both of which had RVs of £24,750 and £9,700 respectively. The panel therefore applied less weight to the rent as it would require a number of adjustments to establish the rent for the appeal property and as the rent commence in 2009, the panel further considered that it was too far from the AVD to be reliable.
12. Mr Worthington argued that as the appeal property was located in Gage Street it should be valued the same as those in Gage Street and that the appeal property should then have the allowances for width to depth and the double frontage.
13. To support his argument, Mr Worthington referred to a number of comparable properties such as 3-5 Gage Street and 7 Gage Street. The VO analysed the rent for these properties to £207.58/m² and £141.37/m² respectively. However, the panel found there were drawbacks with using Mr Worthington's comparable properties as they were not comparable to the appeal property in terms of size and location. The panel found that being on the corner of Gage Street, close to Dalton Square, this made the appeal property more valuable than other properties in Gage Street.
14. The VO had provided rental evidence for a number of properties in the locality which had analysed to between £176.36/m² to £318.57/m². Mr Ali confirmed that he had adopted the main space price of £250/m² for properties in Dalton Square, which was located very close to the appeal property. He also adopted a main space price £200/m² for properties in Gage Street. He suggested that the appeal property, being located at the end of Gage Street was worth more than others in Gage Street, but, not as valuable as those properties that were located in Dalton Square and therefore, Mr Ali had agreed to reduce the main space price of the appeal property from £250/m² down to £230/m², to reflect the location between the two roads, although he had not explained how he had arrived at that value.
15. Mr Ali also confirmed that he had then reflected the allowances (10% for width to depth and then the 5% allowance for the double frontage) within the main space price which further reduced it to a main space price of £207/m².
16. Given the above, the panel concluded that that appeal property should be valued at £215/m² to reflect that it was located in Gage Street which had a lower value than the properties in Dalton Square, but, it should be valued more than the other assessments in Gage Street due to its location, being on a corner which gave the appeal property more visibility to passing vehicles and pedestrians.
17. It also determined that the 5% for the return frontage and the 10% width to depth should be reflected separately in the valuation, to ensure that anyone viewing the valuation are aware of the reasons for the RV being lower and to ensure that the tone for the locality is not affected.

18. The valuation is set out below:

Description	Area	Rate/£	Value
Retail zone A	116.10	215.00	24,961.50
Retail zone B	56.80	107.50	6,106.00
Internal storage	5.40	21.50	116.10
	Sub total		31,183.60
Air conditioning system	172.90	7.00	1,210.30
	Sub total		32,393.90
Less 10% allowance for width and depth			3,239.39
Add 5% allowance for return frontage			1,619.70
			30,774.21
	Rateable value say		30,750.00

Order

19. 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 reduce the entry in the rating list to rateable value £30,750 with effect from 1 April 2017.

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

Refund of appeal fees

21. 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).

Date: 19 February 2024

Appeal number: CHG100849110

Right of further 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.