THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; Accuracy of the RV in the Rating List; Shop and Premises; End allowance for poor layout; Level of value; Appeal allowed in part.

RE: Ground Floor, Rex House, 412, Regent Street, London SW1Y 4PE

APPEAL NUMBER: CHG100854990

BETWEEN: Showcase Group Ltd Appellant

and

Mr A Ricketts Respondent

(Valuation Officer)

PANEL: Mr C Derrick (Presiding Senior Member)

Dr H Freeman (Senior Member)

CLERK: Mrs S Morgan

REMOTE HEARING: Tuesday 21 November 2023

PARTIES PRESENT: Mr H Edwardes – Appellant's representative (Altus Group)

Mr C Tawonezvi – Valuation Officer's representative.

Summary of decision

1. The appeal was allowed in part. The appeal property's current assessment was reduced from £225,000 Rateable Value (RV) to £213,000 RV with effect from 15 September 2018.

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). 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 27 February 2023 and his representatives then appealed the VO's decision to the Tribunal on 15 June 2023 on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. Mr Edwardes appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Edwardes' 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.

4. 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).

5. The hearing was held remotely via Microsoft Teams.

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

Issues

7. The first issue before the panel was the correct level of value to be applied to the appeal property. The appellant's representative sought a reduction from £800/m^2 to £750/m^2 for the unadjusted rate. However, at the hearing, the appellant's representative accepted that £800/m^2 was reasonable.

8. The second issue in dispute was a 15% allowance for poor layout and masking of the property. He sought a revised RV of £197,000

9. The VO's representative contended that the 5% allowance included in the assessment for masking was sufficient and sought a dismissal of the appeal.

Evidence and submissions

10. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence for the appeal property and the parties' comparable properties, location plans, a photograph of appeal property and their skeleton arguments.

11. The appeal property is a shop and premises located on the ground floor of a multi-storey building known as Rex House situated at 4-12 Regent Street, London. It is located a short walking distance from Piccadilly Circus under ground station.

12. The property had a total area of 558.65m^2, ITZA this was 227.07m^2.

Decision and reasons

13. 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.

14. The rent on the subject property was effective from 28/03/2018 at £200,000 per annum on a 10-year term with 5 yearly rent review. This was 3 years post AVD, however the appellant's representative contended that from research along Regent Street that rents had continued to grow between 01/04/2015 and 01/04/2018. It would therefore be assumed that the value at 01/04/2015 would be lower than the rent which was agreed in 2018.

15. During the hearing the appellant's representative accepted that the level of value for the appeal property at £800/m^2 was in line with the same figure which had been agreed on 4 Regent Street. The panel noted this acceptance. The only other matter in dispute was an allowance for the layout.

16. The appellant's representative contended that in line with the layout plan a significant proportion of the appeal property was masked. He considered that this made the unit unique in comparison to the other units in lower Regent Street. The appellant's representative provided 13 comparable properties where allowances ranging between 10% and 20% had been given for layout. He believed that the 15% sought was fair and in line with these properties where layout allowances had already been given.

17. The respondent was of the opinion that the appellant's representative had not advised on how he had arrived at the 15% he was proposing or how the layouts of the comparable properties compared with the appeal property. A floor plan had been provided for the appeal property but no other floor plans for the 13 comparable properties had been included to justify the 15% being sought.

18. With regard to the allowance for layout issues outlined by the appellant's representative, the respondent stated that a 5% allowance had already been given to reflect the masking issues. He therefore saw no reason to increase the existing 5% allowance and sought a dismissal of the appeal.

19. The only issue to determine in this appeal was whether a 15% allowance for layout was appropriate. Having examined the evidence presented by both parties, the panel found that 5% for masking had already been included in the assessment. However, on further examination of the plans, the panel considered that there were layout issues. When entering the building from the small entrance in Regent Street there was no visibility from the front to the rear of the premises unlike other premises in the parade. The panel believed that the hypothetical tenant would reflect this in his rental bid. With this in mind, the panel determined that rather than adjust the zone A figure it would give a 5% end allowance to reflect the poor layout of the appeal property as set out below.

Floor	Description	Area	Relativity	Price	Value
Ground	Retail Zone A	18.15	0.95	760	13,794
Ground	Office	30.19	0.125	100	3,019
Ground	Staff toilets	0	0	0	0
Ground	Retail zone A	93.94	1.05	840	78,910
Ground	Retail zone B	87.66	0.525	420	36,817
Ground	Retail zone B	8.65	0.5	400	3,460
Ground	Retail zone B	138.67	0.475	380	52,695
Ground	Retail zone C	37.97	0.25	200	7,594
Ground	Retail zone C	123.57	0.237	190	23,478
Ground	Remaining retail zone	19.85	0.119	95	1,886
			Sub total		221,653
	Air conditioning	483.7		7	3,386
					225,039
	End allowance for layout – 5%				-11,252
			Total		213,787
			Say		213,000

20. In view of the foregoing the panel determined a revised RV of £213,000 for the subject property. Consequently, the appeal was allowed in part.

Order:

21. 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 amend the entry in the rating list to show a revised assessment of £213,000 RV for the appeal property, with effect from 15 September 2018.

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

23. 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)) provided there is no review of the Tribunal’s decision. The refund will take around six weeks to process.

Date: Monday 18 December 2023

Appeal number: CHG100854990

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.