THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeal; showroom and premises; price per m^2 and end allowances for layout and mixed ages in dispute; quantum; rental evidence and comparable assessments; appeal allowed in part.

RE: 71-73 Lots Road, London SW10 0RN

APPEAL NUMBER: CHG100861720

BETWEEN: Lots Road Auctions — Appellant

and

Mr A Ricketts, Valuation Officer — Respondent

PANEL: Mr A Hussain (Presiding Senior Member)
Mr K Higgins (Senior Member)

CLERK: Mrs L Horne

REMOTE HEARING ON: Tuesday 3 October 2023

APPEARANCES: Mr J McCarthy from Altus Group, representing the appellant
Mr G Singh representing the Valuation Officer

Summary of decision

1 Appeal allowed in part. The panel determined a revised rateable value (RV) of £151,000, with effect from 1 April 2017, based upon a reduction in the price per m^2 from £117 to £105.30, and a 5% end allowance for layout.

Introduction

2 This is a 2017 rating list appeal. 71-73 Lots Road, London SW10 0RN (the appeal property) had been entered in the 2017 rating list as ‘showroom and premises’ at a RV of £177,000 with effect from 1 April 2017.

3 The challenge proposal was submitted by CVS (Commercial Valuers & Surveyors) on behalf of Lots Road Auctions and was received by the

Valuation Officer on 29 September 2022. It had been made on the grounds that the RV shown in the rating list on 1 April 2017 was inaccurate. A revised RV of £111,000 was proposed with effect from 1 April 2017.

4 The Valuation Officer issued a challenge case decision notice on 1 February 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

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 lodged by Altus Group on behalf of the appellant, and received by the Tribunal on 17 May 2023.

6 As Mr McCarthy appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the Tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7 It was established that Mr McCarthy's company would receive a conditional fee if the rateable value was reduced as a result of the panel's decision.

8 However, Mr McCarthy declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

9 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).

10 The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

11 The appeal property was a showroom and premises located next to the River Thames on Lots Road. The present valuation of £177,000 RV was based upon a total area of 1,490m^2 and an unadjusted price of £117 per m^2.

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

Issues

13 There were three issues in dispute:

i. The price per m^2 to be adopted in the valuation.
ii. An end allowance of 5% for layout.
iii. An end allowance of 5% for mixed ages.

Evidence and submissions

14 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge, Valuation Officer's challenge case decision notice, and appellant's challenge submission.

15 On behalf of the appellant, Mr McCarthy stated that the appeal property had been placed in scheme 445472, which valued all properties above $200m^2$ at £117 per m^2. He contended that it was unrealistic that the market would not differentiate for quantum between units of $200m^2$ and the appeal property at $1{,}490m^2$. With reference to comparable schemes, he submitted that a 30% quantum differential should apply, which resulted in an unadjusted price of £81.90 per m^2.

16 Mr McCarthy further submitted that the layout and mixed ages of the subject property warranted an allowance. With reference to comparable evidence, he requested a 5% end allowance for layout and a 5% end allowance for mixed ages. He asked the panel to determine a revised RV of £111,000 with effect from 1 April 2017.

17 On behalf of the Valuation Officer, Mr Singh contended that there was no evidence to differentiate between the smaller assessments and the appeal property in respect of quantum. The smaller units analysed at a significantly higher price per m^2, compared to the subject property's current price per m^2. The reference to end allowances had not formed part of the challenge submission, however, it was the Valuation Officer's opinion that the comparable evidence presented did not support the appellant's case.

18 Mr Singh requested that the panel dismiss the appeal, as the current RV was not unreasonable.

Decision and reasons

19 In accordance with paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, the appeal property must be viewed vacant and to let and 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. The date of the hypothetical rent is 1 April 2015, the AVD for the 2017 rating list.

20 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 1 April 2017.

21 Both parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of 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.

22 It had been confirmed by Mr McCarthy that the appeal property was held freehold and therefore there was no rent passing.

23 The panel first considered whether the present price per m^2 should be adjusted to reflect quantum.

24 Mr McCarthy sought to demonstrate that quantum should be reflected by reference to local industrial schemes:

- 426026 - had a 22% differential between units at 200m^2 (£90 per m^2) and those at 1,500m^2 (£70 per m^2).
- 419292 - had a 28% differential between units at 177m^2 (£165 per m^2) and those at 1,976m^2 (agreed at £120 per m^2).

25 In further support, he stated that for the 2023 list, the appeal property had been valued at £100 per m^2, whereas the units at 200m^2 had been valued at £130 per m^2.

26 Mr Singh disputed the relevance of the properties valued within the schemes cited by Mr McCarthy, some of which were in inferior locations or different in age. Mr McCarthy confirmed that reference to those schemes had not been made to show comparability with the appeal property, but rather to demonstrate that the Valuation Officer had accepted that quantum was applicable in other industrial schemes.

27 Mr Singh referred to the Valuation Officer's rental evidence and highlighted that the smaller units analysed at a significantly higher price per m^2 than the £117 per m^2 applied to the appeal property:

Garage 3, Curran House, Lucan Place, London SW3 3PG

A garage and premises with a total area of 18.4m^2. A rent of £5,000 effective from 1 January 2014 analysed at £264.77 per m^2. The property had been assessed at £131.25 per m^2.

Unit 7A Parsons Green Depot, 33-39 Parsons Green Lane, London SW6 4HS

A workshop and premises with a total area of 68.8m^2. A rent of £6,290 effective from 27 July 2015 analysed at £173.78 per m^2. The property had been assessed at £142 per m^2.

61 Upcerne Road, London SW10 0SF

A garage and premises with a total area of 139.4m^2. A rent of £23,600 effective from 1 March 2015 analysed at £173.53 per m^2. The property had been assessed at £123.50 per m^2.

Tape to Tape, Ground Floor, 7 Heathmans Road, London SW6 4TJ

A workshop and premises with a total area of 373.28m^2. A rent of £56,740 effective from 24 December 2014 analysed at £152.00 per m^2. The property had been assessed at £155 per m^2.

28 The panel noted that the largest of the rental comparable properties was Tape to Tape, Ground Floor, 7 Heathmans Road. At 1,490m^2, the appeal property was four times larger. Given the significant difference in size between the appeal property and the four rental comparable properties, the panel was not persuaded that the rental evidence demonstrated that £117 per m^2 was reasonable for a property of 1,490m^2. In the absence of primary rental evidence, or rental evidence of properties similar in size within the same scheme, the panel favoured Mr McCarthy's approach in identifying local industrial schemes to demonstrate that quantum had been reflected.

29 While the panel held that Mr McCarthy had successfully made a case for quantum to be applied, the level of his adjustment was considered to be too high. In applying a 30% adjustment to £117 per m^2, this resulted in £81.90 per m^2, which was lower than that the price adopted in the valuation of the appeal property in the 2010 list. Taking into account the available rental and comparable evidence, the panel determined that a quantum adjustment of 10% to the present price of £117 per m^2 was reasonable, which resulted in a revised price of £105.30 per m^2.

30 The panel then turned to the consideration of the proposed end allowances of 5% for layout and 5% for mixed ages.

31 In support of a 5% end allowance for mixed ages, Mr McCarthy cited three examples of properties in receipt of either a 5% or 10% allowance. He described the appeal property as being split between an older period factory and a slightly more modern warehouse extension. The period building was further split into a ground floor Victorian building and what appeared to be a later brick extension on the first floor. It was submitted that this resulted in the property being difficult to use and maintain.

32 The panel found some crossover with the arguments put forward for the end allowance for layout. In response to a question for further clarification, Mr McCarthy submitted that there would be a difference in maintenance costs for the different parts, although he acknowledged that he was not an expert in that field. In the absence of any supporting evidence to demonstrate any particular disadvantage, the panel was not persuaded that the mixed ages of the buildings warranted an end allowance.

33 The panel turned to the final issue of a 5% end allowance for layout. Mr McCarthy drew the panel's attention to the plan of the appeal property which illustrated multiple layout issues. As highlighted by Mr McCarthy, the older factory part was divided into numerous smaller rooms with structural walls separating them. Combined with the later warehouse addition, the overall layout was very disjointed and therefore difficult to use. In consideration of the layout allowances adopted for the comparable assessments, the panel determined that the proposed 5% end allowance was reasonable.

34 In conclusion, the appeal was allowed in part as the panel upheld Mr McCarthy's contention for a lower price per m^2 to reflect quantum and a 5% end allowance for layout.

35 The summary valuation below adopts the areas and relativities as set out in the Valuation Officer's Challenge Decision Notice.

Floor	Description	Area m^2	£ per m^2	Value (£)
Ground	Internal Storage	372.50	97.59	36,352
Ground	Store	585.20	117.11	68,533
Ground	Workshop	147.80	63.43	9,375
Ground	Store	384.70	117.11	45,052
			Valuation sub-total	159,312
			Less 5% allowance for layout	(7,966)
			Total value	151,346

Rounded down to £151,000 RV with effect from 1 April 2017

36 The panel determined a revised RV of £151,000 with effect from 1 April 2017, and therefore the appeal was allowed in part.

Order

37 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 alter the entry in the rating list to rateable value £151,000 with effect from 1 April 2017.

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

39 A refund of the paid fee will now be arranged provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 31 October 2023

Appeal number: CHG100861720

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.