

THE VALUATION TRIBUNAL FOR ENGLAND



2017 rating list appeal; Local Government Finance Act 1988; club and premises; tone of the rating list in the locality; main space price; appeal allowed.

APPEAL NUMBER: CHG100869352

BETWEEN:	Castle Rock Properties Ltd	Appellant
and	Andrew Ricketts (Valuation Officer)	Respondent

RE: 11a Kentish Town Road, London NW1 8NH
("the subject property")

PANEL: Ms A Verma (Presiding Senior Member)
Ms S Eze (Senior Member)

CLERK: Mrs A Sloan

SITTING ON: 13 October 2023 (remote hearing no.2)

APPEARANCES: Mr S Carter of Altus Group as Advocate (for the appellant)
Mr P Barney of Altus Group as Expert Witness (for the appellant)
Ms M Maine (Valuation Officer's representative)

Summary of decision

1. Appeal allowed. The panel reduced the rateable value (RV) to £297,500 from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 20 October 2022. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was partially well founded and altered the existing assessment from £420,000 to £367,500 RV, with effect from 1 April 2017. A decision notice to that effect was served on the appellant on 17 February 2023 and this decision was appealed to the

tribunal on 19 May 2023, on the grounds that the revised valuation for the hereditament was not reasonable.

3. The subject property is a nightclub and premises situated close to Camden Town tube station. It has entrances in both Camden High Street and at 11a Kentish Town Road. To assist the tribunal, the parties had agreed all basic facts and the only issue to be decided was the correct main space price for the property.
4. Ms Maine was appearing as advocate and expert witness for the VO. Mr Carter appeared as advocate for the appellant, with Mr Barney acting as expert witness. Mr Barney confirmed that his firm was instructed on a success related fee but accepted that first his duty was to the Tribunal and that he would comply with this duty together with the requirements of his professional body, regardless of whether or not the evidence supported the appellant's case.
5. Whilst such evidence would be inadmissible in the Upper Tribunal, having regard to the Upper Tribunal's judgment in *Gardiner & Theobald LLP v Jackson (VO)* [2018] UKUT 0253 (LC), 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 in England). The panel, therefore, considered the "expert" evidence and attached such weight to it as it saw fit.
6. This document is not intended as a verbatim report of the proceedings, nor is it proposed to reproduce in full all the parties' evidence.

Issue

7. The issue in dispute before the panel was the correct tone of value to be applied to the subject property. The compiled list entry had been reduced at Challenge stage from £430/m² to £375/m², which Ms Maine defended. The appellant's submission originally sought a reduction to £265/m² but, on appeal, Mr Carter sought a reduction to £305/m² based on comparable nightclubs in the locality.

Decision and reasons

8. The material date on which to consider the property was 1 April 2017, as this was a challenge to the compiled list entry for the subject property. The value must be considered as at the antecedent valuation date (AVD) of 1 April 2015.
9. There was no rent passing on the subject property, as the freehold is owned by the appellant. Therefore, the parties referred the panel to comparable assessments in the locality. Mr Barney stated that the subject property's entrance in Kentish Town Road is a former retail unit, but the property then opens out into a larger warehouse type building. The main space is on the ground floor including the bar and dance floor. There is a mezzanine floor overlooking the dance floor plus a rarely used restaurant and some basement storage. He submitted that there are four nightclubs in around a one-mile radius that provide evidence of the tone of the list for this type of property.
10. 9-17 Highgate Road was the furthest from the subject property, significantly larger and not in the same locality, so little weight was placed on this example by either party. The club at

Basement 22 Inverness Street was also largely disregarded by the parties as, although nearby, it is over 850m² smaller than the subject property.

11. The focus of the parties' submissions was on 'Koko' at 1a Camden High Street and the 'Jazz Café' at 5-7 Parkway. Both properties had been initially valued on a main space price of £430/m², the same as the subject property, and both had been reduced by agreement with the appellants.
12. Koko is larger than the subject property by around 156m² and had been reduced to a main space price of £265/m² following a proposal to reduce the RV. Ms Maine contended that this property was in a less desirable area, closer to Mornington Crescent tube station, and further from the subject property's busier location near Camden Town. Mr Barney submitted that Koko had a far more imposing frontage and was in the same road as the subject property, so it was comparable, but he accepted that the lower main space price may reflect an element of quantum and the quieter location.
13. The other nearby comparable property referenced was the Jazz Café at 5-7 Parkway. Also initially valued at £420/m², the main space price was reduced following a proposal to £375/m². There was a rent available on this property which, although dating from 2017 and therefore not close to the AVD, the VO contended supported the rate at £375/m². Ms Maine submitted that the decision to reduce the main space price for the subject property was based on this comparable property. She contended that it is in the same locality and, although smaller, she felt that the revised £375/m² was reasonable.
14. The appellant's representative submitted that 5-7 Parkway has a more prominent frontage and is significantly smaller, by over 500m². Mr Barney stated that in both the 2010 and 2023 rating lists, the subject property had been valued between the main space price for Koko and the Jazz Café, but the same approach had not been taken in the 2017 list. When questioned, Ms Maine was unable to explain why a different approach had been taken, but she maintained £375/m² was reasonable for the subject property.
15. After examining the photographs provided in the evidence bundle, the panel found that both Koko and the Jazz Café were more prominent buildings and more appealing from the street. No internal photographs were provided for the subject property or the comparable clubs. Although much closer, the Jazz Café at 5-7 Parkway was considerably smaller than the subject property and therefore a less comparable building than Koko at 1a Camden High Street. The panel noted that Koko is located some distance from the subject property, but Mr Carter submitted it was only around half a mile away, which Ms Maine did not dispute. The panel concluded that, being closer in size, Koko was the better comparable property, but some allowance must be made for the quieter location, which is reflected in the lower main space price of £265/m².
16. The panel found that comparison between different rating lists is not usually helpful, as each list is compiled with reference to a different AVD and associated rental values. However, it appeared that it had been accepted in the 2010 and 2023 lists that the subject property's value was between that of Koko and the Jazz Café, which the panel found to be reasonable in the absence of rental evidence from around the AVD. The VO was not able to provide a reason why the same approach had not been applied in the 2017 list.
17. Considering all the evidence presented, the panel found that the best comparable property was Koko at 1a Camden High Street. This property was closest in size and had a far more imposing frontage but was in a less desirable location away from busier entertainment areas.

It found that the Jazz Café, 5-7 Parkway was less comparable, being a significantly smaller venue. On balance, the panel considered that a figure between these two assessments was fair and the appellant's proposed £305/m² was reasonable. The appeal was therefore allowed.

Order

18. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 as amended, the Valuation Officer is ordered to amend the entry for 11a Kentish Town Road, London NW1 8NH in the 2017 Rating List to £297,500 effective from 1 April 2017.

The Valuation Officer must comply with this Order within two weeks of its making.

Valuation

Line	Floor	Description	Area (m ² /unit)	£ per m ² /unit	Value (£)
1	Ground	Bar	256.00	£305.00	£78,080
2	Ground	Dance Floor	420.50	£305.00	£128,253
3	First	Restaurant	152.50	£305.00	£46,513
4	First	Lounge	51.07	£305.00	£15,576
5	Ground	Dance Floor	79.00	£305.00	£24,095
6	Basement	Internal Storage	52.30	£137.25	£7,178
Total Area			1011.37	Subtotal	£299,695
Total Value					£299,695
RV					£297,500

Date: 30 October 2023

Appeal number: CHG100869352

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.