THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; shop and premises; Zone A price per m^2 and floor areas in dispute; rental evidence; comparable assessments; appeal allowed in part.

RE: Art Of Living, 16 Anyards Road, Cobham KT11 2JZ

APPEAL NUMBER: CHG100931199

BETWEEN: Art of Living (Reigate) Ltd Appellant

and

Ms D Bunyan Respondent
(Valuation Officer)

PANEL: Mr K Sheth, (Presiding Senior Member)
Ms C Caiquo, Senior Member

CLERK: Ms R Muller

REMOTE HEARING ON: Thursday 15 February 2024

APPEARANCES: Ms K Breen, from Hampton-Lovett, representing the Appellant
Ms S Pettinger, representing the Respondent

Summary of decision

1. Appeal allowed in part. The panel held that the proposed Rateable Value (RV) submitted by the Respondent was reasonable. Therefore, the panel confirmed a revised RV of £44,250 with effect from 20 July 2019.

Introduction

2. This is a 2017 Rating List appeal. Art Of Living, 16 Anyards Road, Cobham KT11 2JZ (the subject property) had been entered into the 2017 Rating List as ‘shop and premises’ at an RV of £49,750 with effect from 20 July 2019. A Check had been completed on 20 October 2022 and a Challenge submitted on 24 February 2023. The Challenge stage was completed on 8 June 2023 with no change to the RV of the subject property. An appeal was received by the Tribunal on 5 October 2023 against the Challenge decision.

3. Ms Breen appeared on behalf of the Appellant as advocate and Ms Pettinger appeared on behalf of the Respondent as both expert witness and advocate.

4. The subject property was constructed in 1972. It was a two storey shop, which comprised of a ground and first floor with a mezzanine. It was located in Cobham town centre in Anyards Road. It had a total area of 174.30 m². The current Zone A price had been set at £875 per m². The subject property was in valuation scheme 320707, which states ‘The value is applicable to Cobham Town Centre shops in Anyards Road, Between Streets, Church Street, High Street, Holly Hedge Road and Oakdene Parade’. The tone of this valuation scheme ranged from £125.00 per m² to £1,100.00 per m².

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

Issues

6. The issue before the panel was the correct Zone A price for the subject property.

Evidence and submissions

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

8. In support of her proposed Zone A price of £650 per m², Ms Breen, the Appellant’s representative provided comparable properties for the panel to consider. She stated that she would not rely on the rent of the subject property as it had commenced in 2012. Therefore, it did not reflect a true value of rents at the Antecedent Valuation Date (AVD) of 1 April 2015. However, due to the comparable evidence she had provided, she requested that the panel allow the appeal and confirm an RV of £37,000 with effect from 20 July 2019.

9. Ms Pettinger stated during the hearing that using the correct areas from when the subject property had entered the 2017 Rating List in July 2019 and the fact that the property was sat back away from the other shops, she requested that the panel determine a proposed, revised RV of £44,250 with a Zone A price of £780 per m².

Decision and reasons

10. In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

    2(1) 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;

    (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.

11. 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 AVD of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

12. 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 20 July 2019

13. The panel referred to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, as it was aware that this was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent. Consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to the subject rent. The remaining propositions required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

14. The subject property had a lease which had commenced in May 2013 at a rent payable of £35,000. It was also noted that this rent could have been a stepped rent, but no details had been provided on the form of return. The lease had been renewed in July 2017 on an open market basis with full repairing terms. The rent had been set at £50,000 per annum, which analysed to £889.52 per m² ITZA.

15. The rent had also been reviewed on 1 January 2019 with the rent remaining the same at £50,000 per annum. The panel agreed that both the lease renewal and rent review were too far removed from the AVD to assist it when making its decision. Therefore, it considered the comparable properties evidence provided by both parties.

16. Ms Breen stated that as the rents around the AVD were considered to be excessive, she did not consider the rental details of comparable properties. She relied upon the comparable properties where the Zone A prices were much lower.

17. Ms Breen referred the panel to properties located on Anyards Road, Hollyhedge Road, High Street and Church Road. These comparable properties varied in size from 20.70 m² to 176.20m². The panel noted that the comparable properties which were similar in size to the subject property had Zone A values set at between £650 per m² and £695 per m².

18. Ms Breen informed the panel that the properties located on High Street were in a more prominent, desired location. She stated that 51 High Street was similar in size to the subject property at 130.50 m² with a Zone A price of £650 per m². However, the panel noted that Ms Breen had provided three comparable properties located on High Street and their values varied significantly between £635 per m² and £800 per m².

19. However, the panel did consider six comparable properties, which were located on the same road as the subject property of Anyards Road. These comparable properties sizes varied between 66.57 m² and 176.20 m². The panel noted that 19 Anyards Road was similar in size to the subject property of 176.20 m² and had a Zone A price of £695 per m². However, Ms Breen stated that the closest to the subject property was 24 Anyards Road, which was located a few doors away on the same side of the street. It was slightly smaller in size at 137.39 m² but had a Zone A value of £600 per m².

20. Ms Breen stated that she had included properties located on Hollyhedge Road and Church Street, as these comparable properties were situated either on a street directly behind the High Street or on a road just off the bottom of the High Street and were as close to the High Street as the subject property but had lower Zone A values. She also stated that the subject property does not have parking, whereas the comparable properties had the benefit of parking spaces.

21. Ms Pettinger referred to 12 comparable properties located on Anyards Road in support of her contention that the correct Zone A price for the subject property was £780 per m². The panel noted that these comparable properties had sizes which ranged between 41.75 m² and 174.30 m², with the subject property being the largest. The Zone A value placed upon these comparable properties were either £875 per m² or £900 per m².

22. Ms Pettinger stated that Ms Breen was not valuing like for like, whereas she had considered shopping parades and where each property sat within the town and the shopping parades. She informed the panel that the comparable properties she had presented were more representative of the subject property. The panel noted that the base rate had been determined using rental evidence from a specific section of the parade. The panel noted that no rental evidence had been provided to show that a reduction was warranted in the base rate of the subject property within that section of the parade.

23. However, it was noted that Ms Pettinger did reduce the base rate for the appeal property due to the correct areas from 2019 and that fact that it was located further back, away from the other shops, which was lower than the base rates for any of the comparable properties she had referred to. The panel, therefore, allowed the appeal in part in view of the Valuation Officer's proposed base rate of £780 per m² and confirmed the revised RV of £44,250.

Order

24. 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 for Art Of Living, 16 Anyards Road, Cobham KT11 2JZ to rateable value £44,250 with effect from 20 July 2019.

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

26. 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: 1 March 2024

Appeal number: CHG100931199

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.