THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; shop and premises; Zone A price per m2 in dispute; rental evidence; comparable assessments; appeal dismissed.

RE: 162a Sloane Street, London SW1X 9BS

APPEAL NUMBER: CHG100963432

BETWEEN:	Wickstead Gargiulo Ltd (Represented by Altus Group)	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent

PANEL:	Mrs L Bryning (Presiding Senior Member) Mrs N Carman (Senior Member)
CLERK:	Ms R Muller
REMOTE HEARING:	Wednesday 10 January 2024
APPEARANCES:	Mr J McCarthy from Altus Group, (Appellant's representative) Mr C Cates, Valuation Officer's representative

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Summary of decision

1. Appeal dismissed. The panel determined that the present Zone A price of £4,400 per m^2 was reasonable and therefore the rateable value (RV) of £347,500 with effect from 1 April 2017 was confirmed.

Introduction

2. This was a 2017 rating list appeal. 162a Sloane Street, London SW1X 9BS, (the 'subject property') had been entered in the 2017 rating list as 'shop and premises' at a RV of £365,000 with effect from 1 April 2017. The RV had been reduced to £347,500 RV following the check stage.

3. The challenge proposal was submitted by Altus Group on behalf of Wickstead Gargiulo Ltd and was received by the Valuation Officer on 17 March 2023. 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 £275,000 was proposed with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 16 May 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. Mr McCarthy appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr McCarthy explained that he was instructed on a contingency fee basis and he declared that he understood and accepted his duty to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body, regardless of whether the evidence supported the client's case.

6. Mr Cates who appeared on behalf of the Valuation Office Agency stated he was acting as advocate only.

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

8. 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 was not reasonable. The appeal was received by the Tribunal on 29 June 2023.

9. The subject property was a retail unit located on Sloane Street, a shopping centre within London. It was assessed in valuation scheme 389616 applicable to shops on Sloane Street.

10. The present valuation of £347,500 RV was based upon a total area of 151.18m^2, at a Zone A price of £4,400 per m^2.

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

Issues

12. The issue in dispute was the Zone A price per m^2 to be adopted in the valuation.

Evidence and submissions

13. The bundle comprised all 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.

14. In support of his proposed Zone A price of £3,500 per m^2, Mr McCarthy referred to comparable rental evidence and requested a revised valuation at £275,000 RV with effect from 1 April 2017.

15. On behalf of the Valuation Officer, Mr Cates defended the present Zone A price of £4,400 per m^2 with reference to the basket of rental evidence.

Decision and reasons

16. The term 'rateable value' is defined in Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "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 three assumptions that were noted within the evidence bundle.

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

18. 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.

19. The panel was guided by the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which had set out six propositions to be followed when considering the weighting of evidence. The subject rent was the starting point, but 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 it.

20. The appeal property was subject to a lease effective from 10 January 2016 at a rent of £280,000 per annum (pa). A copy of the lease had not been provided. Mr McCarthy analysed the rent to be £3,535 per m^2. However, as neither party had any details of the lease except for the figure paid, the panel placed less weight on the figure paid by the appellant for the lease in 2016.

21. The VO's representative Mr Cates had stated that there had been a six month licence entered on the FOR which had commenced from 16 January 2013. However, when upon viewing the details within the evidence bundle, the panel noted that this licence was under the name of a different company and not the appellant company. Therefore, the panel did not place any weight on the details of the licence with regards to the subject property in 2013.

22. The remaining propositions in *Lotus and Delta* required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

23. Of the rental comparables scheduled in the Appellant's submission, the panel noted that they were all located on the same street as the subject property and within the same valuation scheme. Mr McCarthy, the appellant's representative, stated that all of the retail units located at 147, 148, 150 and Bst & Gnd Floor 161 Sloane Street were valued at the same Zone A rate of £4,400 per m².

24. However, Mr McCarthy argued that as the subject property was located at the top end of Sloane Street, it was in an isolated position and had a lack of visibility from the main parade, unlike the rest of the other retail units further down Sloane Street. He stated that if a person was stood outside one of the other retail units further down Sloane Street, and as the subject property's frontage is smaller, which takes away the prominence of the subject property and it would therefore, not be seen by people walking past the other retail units on Sloane Street.

25. Mr McCarthy informed the panel that the frontage was unusual in the fact that it had pillars at the windows and looked different than the other retail units. The panel noted that the VO had already given an allowance of 8.5% for width to depth ratio, which the panel held was acceptable due to the unusual design of the subject property compared with the other retail units on Sloane Street.

26. The panel was also informed that there was a park located opposite the subject property, and that the subject property was the furthest retail unit located at the top end of Sloane Street.

27. With the park being located at the top of Sloane Street, Mr McCarthy argued that less people would carry on walking up the street and many would miss the subject property as it did not look like the other retail units. As such, the Zone A rate for the subject property should not be as high as the other retail units located on Sloane Street and therefore, he asked the panel to confirm a revised Zone A rate of £3,500 per m² which would result in a revised assessment of £275,000 RV with effect from 1 April 2017.

28. The panel noted when considering the photographs provided by the parties, that the subject property, although at the top end of Sloane Street, had a zebra crossing immediately outside. It held that as people walked up Sloane Street, they would walk past the subject property in order to use the zebra crossing and therefore, would see the subject property. Therefore, the panel placed less weight on the details provided by Mr McCarthy that the lack of visibility due to the subject property's frontage would create a smaller footfall than the other retail units on Sloane Street.

29. In order to assist the panel when making its determination about the correct Zone A rate for the subject property, it referred to the comparable properties' details. It was noted that the comparable properties sizes ranged from 187.60 m^2 to 217.60 m^2, which were slightly larger in size than the subject property. However, the rental figures for the comparable properties ranged from £199,584 pa to £331,008 pa, which Mr Cates had analysed at between £4,136 per m² and £4,926 per m². Therefore, Mr Cates asked the panel to confirm the Zone A rate for the subject property at £4,400 per m² with effect from 1 April 2017 and to dismiss the appeal.

30. The panel also noted that all of the comparable properties' rental details were either renewals or rent reviews. The panel placed the most weight on 150 Sloane Street, which had a lease renewal for a period of 10 years. It had a rental figure of £331,008 pa. The panel also considered 157-158 Sloane Street to be of assistance when making its decision, as this property also had a rent review close to the AVD on 1 September 2015 with a rental figure of £330,773 pa. Although 150 Sloane Street was slightly larger in size than the subject property at 217.60 m^2, it was noted that 157-158 Sloane Street was similar in size at 187.60 m^2. Both these properties supported the Zone A rate for the subject property at £4,400 per m^2.

31. The panel therefore concluded that the weight of the evidence demonstrated that the present tone of £4,400 per m^2 was reasonable. Consequently, the assessment of the appeal property at £347,500 RV was confirmed with effect from 1 April 2017, and the appeal dismissed.

Date: 29 January 2024

Appeal number: CHG100963432

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.