VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal appeal: Local Government Finance Act 1988; shop and premises; challenge against compiled list entry; accuracy of rateable value; comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed in part.

APPEAL NUMBER:	CHG101050102	
RE:	Bst-gnd Flrs 56-58, Cheapside, London, EC2V 6AR (the "subject property")	
BETWEEN:	Sarah Nudd	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	21 May 2024	
BEFORE:	Mr K Everett, Senior Member Mr P Phelps, Member	
CLERK:	Ms N Shepherd (IRRV Hons)	
APPEARANCES:	Mr A Rose of Tanner Rose, on behalf of the appellant Ms R Heuck, on behalf of the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part. The panel determined the rateable value (RV) of the subject hereditament to be £179,000 with effect from 1 April 2023.

Introduction

2. The appeal process began with a challenge made by the appellant's representative on 14 April 2023 in respect of the respondent's rating list entry of the subject property at £287,500

RV with effect from 1 April 2023. The appellant's representative proposed a revised assessment of £126,000 RV from that date based on a reduced value for main space.

4. The respondent issued a challenge case decision notice on 11 August 2023, which found that the proposal was not well founded, and the current rating list entry was reasonable based on the information and evidence available. The appellant's representative appealed that decision to this Tribunal on 22 August 2023 on the grounds that the valuation for the subject hereditament remained unreasonable and sought a zone A rate of £1200/m^2.

5. On 9 January 2024, after reviewing the evidence received during the challenge stage the respondent revised its opinion of value in respect of the subject property and instead proposed a zone A rate of £1700/m^2. The appellant's representative considered this remained unreasonable and that a zone A rate of £1200/m^2 was more appropriate.

6. The subject property was a shop and premises located on Cheapside and Bow Lane in the centre of London off the A1213 Road.

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

Relevant Law

8. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

9. In respect of an appeal against an entry in the 2023 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2021, in accordance with the Rating Lists (Valuation Date) (England) Order 2020 (SI 2020 No. 832). In respect of the subject appeal, the material day is 1 April 2023.

Discussion

10. The disputed issue was the zone A rate applied to the subject property. Ms Heuck, on behalf of the respondent submitted that the respondent's proposed revised tone of £1700/m^2 for zone A, giving an RV of £179,000 was reasonable. Mr Rose contended that a zone A rate of £1200/m^2 giving an RV of £125,600 was more reasonable. He submitted that the locality had been heavily impacted as a result of COVID and footfall had not returned to previous levels. He referred to the fact that at 1 April 2023, the start of the valuation list, there were thirteen

vacant properties located on Cheapside demonstrating the effect there had been. The subject property was one of these vacant properties, having been empty since 31 January 2021.

11. The panel had regard to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The panel 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 comparables

12. There was no rent close to the AVD for the subject property However, Mr Rose submitted that weight should be attached to the heads and terms for proposed lease agreements in respect of the subject property. The first of these was dated 16 June 2021, just over two months following the AVD. Mr Rose contended that the terms of this lease equated to an average yearly rental figure of £125,800 over the first 5 years, significantly less than the reduced RV of £179,000 submitted by the respondent.

13. The panel could understand the reasons why Mr Rose referred to the heads and terms as these were in respect of the subject property, less than three months following the AVD and therefore could be seen to reflect the rental value which could be achieved by the subject property at that time. However, as the heads and terms were proposals which were subsequently never agreed the panel did not consider these agreements to be evidence of open market rents. As such, it found it could attach no weight to this evidence.

14. The panel then addressed the comparable evidence provided by both parties. Ms Heuck referred to 90 Cheapside which had a rent agreed following a rent review on a full repair and insurance (FRI) basis of £70,000 per annum (pa) with effect from 1 March 2020. A side letter was agreed with the tenant to reduce the rent for the first two year to £45,000 pa, with a break clause on the second year of the lease with a £35,000 penalty payment. Ms Heuck submitted that this rent had been analysed two ways, the first on a term certain approach analysing the £45,000 over a two-year term including the £35,000 penalty clause, which analysed to a zone A rate of £1831/m^2. The other analysis was over the 5-year period of the term with the first two years at £45,000 and the final three years at £70,000 which equated to a zone A rate of £1757/m^2. Ms Heuck submitted that the respondent's preferred analysis was the first, but that either supported a tone of £1700/m^2.

15. Ms Heuck also made reference to 101 Cheapside, 145- 147 Cheapside and 84 Cheapside. 101 Cheapside was a lease renewal with a rent of £285,000 pa effective from 1 July 2021. This rent had been analysed two ways due to a six-week gap between the lease commencement date and the rent payment date. The first analysed the rent over the term of the lease which equated to £1717.07/ m^2 and the second used the six week rent free period as an incentive, analysing to £1677.74/m^2. The panel considered whilst this was a lease renewal it was good evidence due to being only three months following the AVD.

16. 145 – 147 Cheapside was a lease renewal of £140,000 pa with effect from 25 June 2022 with a 17-month rent free incentive and a 2.5% allowance for shape, which adjusted to £122,705, analysing to a zone A rate of £1543/m^2. 84 Cheapside was a new letting with effect from 1 November 2022 for £80,000pa which when adjusted analysed to a zone A rate of £1571/m^2. The panel noted that these rents were agreed fourteen months and nineteen months post AVD and as such attached less weight to these two comparables than to 101 Cheapside and 90 Cheapside.

17. Mr Rose referred to two other comparable properties he considered supported a reduction in the assessment for the subject property. 144 Cheapside was a new lease of £26,000 pa, effective from 1 January 2021. The panel considered this to be a good comparator in terms of proximity to the AVD and that it was a new letting, however it noted that this lease was based solely upon turnover of the tenant. As such, it did not consider this to be indicative of what the open market rent at the AVD would be at the subject property and as such did not attach any weight to this property.

18. 85 Cheapside was a new five year letting effective from 5 September 2022 which had a four-month rent free period at the outset of the lease followed by a rent of £53,750 for the first year of the lease. The rent then increased to £107,500 pa for the duration of the term with a break clause after three years. This analysed to a zone A rate of £1213.67/m^2.

19. Mr Rose also contended that if the zone A rate could not be reduced then instead an allowance of 7.5% should be awarded to reflect the disabilities afforded to the subject property due to its trapezium like shape. An allowance of 7.5% would also result in a reduced RV of £126,000. He referred to the fact that 145-147 Cheapside had been awarded a 2.5% allowance for shape and 90 Cheapside a 5% allowance for being a small unit. The panel considered Mr Rose's contention but found that there was a lack of evidence provided to warrant an allowance to reflect shape and the effect this would have upon the rental value achieved at the subject property.

20. The panel could understand the reasons for the appeal and that there had been an increase in vacant properties and a reduction in footfall within the locality. However, taking into account the evidence submitted by both parties it ultimately found the strongest evidence to be 101 Cheapside. Whilst this was a lease renewal, it was in close proximity to the AVD. The panel considered this evidence, in conjunction with 90 Cheapside, supported the respondent's proposed revised zone A rate of £1700/m^2. Whilst the panel considered the evidence pertaining to 85 Cheapside to be useful, it ultimately found the date of this lease to be too far removed from the AVD and as such attached less weight to it. Therefore, based upon the evidence provided, the panel found that a zone A rate of £1700/m^2 at the subject property would be reasonable.

21. The revised assessment for the list entry with effect from 1 April 2023 as determined by the panel was as follows:

Floor	**Description**	**Area m^2/unit**	**£ per m^2 unit**	**Value (£)**
Ground	Retail zone A	79.28	1700.00	134,766
Ground	Retail zone B	43.55	850.00	37,018
Basement	Internal Storage	27.90	85.00	2,372
Basement	Storage	36.70	127.50	4,679
ADDITIONAL FEATURES OF THE PROPERTY INCLUDED IN THE VALUATION				
Air Conditioning System		122.83	7.00	860
			Valuation sub-total	179,705
			Say RV	179,000

Disposal

22. In view of the above findings and conclusions, the panel allowed the appeal in part.

23. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject property's entry in the rating list to £179,000 RV with effect from 1 April 2023. The respondent must comply with this order within two weeks of its making.

24. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date issued to parties: 20 June 2024

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.

Amended decision in accordance with Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 due to a clerical error.