VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; rental evidence: tonal evidence: location of subject property and comparable properties: weighting of evidence; appeal allowed in part

APPEAL NUMBER:	CHG101071152	
RE:	M196 1st Floor A1 Upper Lock, Hawley Wharf, Camden Lock, London, NW1 8RP (the "subject property")	
BETWEEN:	A'DO'RE fritto	Appellant
	and	
	Mr A Ricketts (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Monday 20 May 2024 at 2 pm	
BEFORE:	Mr A Ramsay (Presiding Senior Member) Mr AN Backway (Senior Member)	
CLERK:	Mr A Jolly	
APPEARANCES:	Mr S Berkley of Knight Frank representing the appellant Miss L Tang representing the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed-in-part. The panel determined rateable value (RV) £27,750 with effect from 26 August 2021.

Introduction

2. This appeal has been brought in respect of the following: An appeal was lodged by Knight Frank on behalf of the occupier on 20 December 2023 against the Valuation Officer's (VO) Challenge Decision Notice of 25 September 2023.

3. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

4. Mr Berkley 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 Berkley's declaration of truth included a statement that he was instructed under a conditional fee arrangement.

5. Mr Berkley declared that he understood and accepted that his duty was 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 or not the evidence supported the client's case.

6. 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).

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

8. Miss Tang, on behalf of the respondent was acting in the dual role or advocate and expert witness.

Preliminary issue

9. On 30 April 2024 Miss Tang requested that a Valuation Tribunal decision in relation to various appeals at Buck Street Market, Camden High Street, London be admitted as evidence and on 3 May 2024 she requested that rental evidence and maps showing the area and the price per m² adopted be admitted. Mr Berkley objected to the inclusion of the information as the rental evidence and map would have been available during the challenge stage and the decision, which was issued on 19 January 2024, would have been available at least four weeks before the hearing and that he would be disadvantaged by its late submission. Miss Tang stated that she had only become aware of the decision when she started to prepare for the hearing and requested its inclusion as soon as she became aware of it. She accepted that the rental evidence would have been available during the challenge stage but as she had considered the subject property rent was supportive of the RV applied she had not provided rental evidence previously.

10. The panel considered Regulation 17a of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (SI 2009/2269) which states:

17A Admission of new evidence on NDR appeal

(1) On a NDR appeal, the VTE may only admit evidence that was not included in the notice of appeal or any document accompanying the notice of appeal ("new evidence") if—

(a) that evidence—

(i) is provided by a party to the appeal;
(ii) relates to the ground on which the proposal was made; and
(iii) was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations; or

(b) all the parties to the appeal agree in writing to the party providing the new evidence.

11. As the rental evidence and maps showing the tone for each area sought to be included by Miss Tang would have been available during the challenge stage, and as no agreement had been reached between the parties for its inclusion, the panel considered that it failed the test to be applied and therefore the rental evidence and maps should not be included.

12. The panel then considered whether the Valuation Tribunal decision should or should not be admitted. Whilst the panel accepted that the decision itself was not available until after the challenge decision notice had been issued the decision made reference to rents which the respondent had sought to include. The panel therefore considered that the decision should not be admitted.

Issue

13. The issue before the panel concerned the price per m² to be adopted having regards to all the evidence available including the rent on the subject property and the tonal evidence and the weight to be attached to that evidence.

14. The subject property was a restaurant unit located on the first floor of Hawley Wharf Market. Hawley Wharf Market comprises a large mixed-use development situated either side of the railway arches in Camden with parts located alongside Regents Canal and was completed in 2021. It is an industrial style building which was split into two connected wings set over four floors and was accessed via Camden High Street, Kentish Town Road, Regent’s Canal towpath and Water Lane.

Evidence and submissions

15. The bundle comprised a summary of the case from the appellant’s representative, the VO’s challenge Notice, rental evidence, tonal evidence and valuations.

Decision and reasons

16. Mr Berkley stated that the subject property was within a new, rather unique, development completed in 2021. He considered that the rent on the subject property being from August 2021 was too remote from the AVD. Also, he stated that whilst the base rate, analysed to the break clause, equated to an average of £1,113 per m² this had never been paid due to a concession which was agreed where the ratepayers only paid 35% of the base rent until February 2023 which was increased in March 2023 to 45%. This equated to £375 and £485 per m². He considered that the rental evidence was of limited assistance and therefore he had to consider other evidence in support of his contention that £410 per m² should be applied.

17. Mr Berkley referred to other similar modern developments within London which included Coal Drop Yard, Kings Cross; Boxpark Wembley; Boxpark Croydon; Victoria Market Hall, Victoria Street; Market Halls, Oxford Street; Boxpark Shoreditch. He stated that Boxpark Shoreditch was opened prior to the AVD but this was one assessment in the Rating List and therefore the rental evidence was not relevant. Out of the remaining similar developments he considered that Coal Drop Yard was the most comparable in location being a short distance from the subject property and located on the Regent’s Canal but in Kings Cross. The price per m² adopted was £410 but due to a 10% allowance the price per m² was £365.

18. Mr Berkley stated that Boxpark Wembley was valued at £416 per m² and Boxpark Croydon was valued at £430 per m², however, these were some distance from the subject property. He also referred to Market Halls Victoria, where the upper floors were valued at £850 per m² and Mall Halls Oxford Street, where the upper floors were valued at £1,350 per m². However, due to their addresses he considered these to be premium locations and therefore the price per m² on the subject property should be lower.

19. Mr Berkley considered that the comparable evidence showed that the subject property RV was excessive and requested the appeal be allowed and confirm RV £19,000 based on a price per m² of £410.

20. Miss Tang stated that in 2014 they had been 7.8 million visitors to Camden Market, and it was a tourist destination. Hawley Wharf comprised 70 units with 31 being restaurants and 39 shops with the shops having a lower tone than the restaurants.

21. In analysing the rent for the subject property from in August 2021 it equated to between £1,203 and £1,535 per m² and Miss Tang stated that traders were prepared to pay a higher rent to run a restaurant. She considered the rent supported her price per m² of £1,400. She also stated that the concession given by the landlords was temporary and Covid 19 related.

22. Miss Tang referred to the comparable hereditaments cited by the appellant's representative in the challenge. She considered that Chalk Farm Road should be ignored as it was nearer to the station. However, she considered that 250 Camden High Street provided supportive evidence of £1,400 per m². This property had been assessed at £1,250 per m² although through questions she accepted that the 1st floor had been valued at £625 per m².

23. Miss Tang did not consider the other comparable developments were truly comparable due to location or being primary retail areas. She stated that Camden Market was a tourist destination and did not believe that Kings Cross was a tourist destination and was a different locality. She accepted through questions that Kings Cross had gone through a re-generation but still considered it was not a tourist destination.

24. The panel considered that the values applied per m² on the upper floors Market Halls at Victoria and Oxford Street at £850 and £1,350 illustrated that the £1,400 applied on the subject property was excessive as the panel considered Victoria and Oxford Street were premium localities compared with Camden Market.

25. The panel did not consider Boxpark in Shoreditch, Croydon and Wembley were of assistance either due to the difference in locality and distance from the subject property. However, it did consider that Coal Drop Yard in Kings Cross was of assistance as it was located was nearby and both properties were situated by the Regents Canal. The panel noted that Kings Cross had been regenerated but considered that values would lower than Hawley Wharf as it accepted that Camden Market was a greater tourist destination.

26. The panel therefore considered that the price per m² to be adopted would be higher than the £410 that was applied at Coal Drop Yard but lower than £850 which was adopted at Market Halls, Victoria.

27. The panel considered that 250 Camden High Street provided assistance. Whilst the ground floor was valued at £1,250 the first floor was valued at £625 per m². As the subject property was located on the first floor, its value would be less than a property located on the ground floor. The panel then considered the location of 250 Camden High Street compared with that of Hawley Wharf. It considered that as Hawley Wharf was located off the High Street it would have a slightly lower value than the 1st floor of 250 Camden High Street. In its opinion £600 per m² was reasonable when considering the comparable evidence and location.

28. The panel having considered all the evidence and having weighted that evidence had been persuaded that the price per m² adopted was unreasonable. In considering the evidence the panel considered that a price of £600 per m² should be adopted and therefore confirm RV £27,750.

Valuation

Floor	**Description**	**Area M²**	**Basic Rate**	**Adjusted Rate**	**Value**
first	retail area	46.41	£600	£600	£27,846

say RV £27,750

Order

29. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £27,750 with effect from 26 August 2021 within two weeks of the date of this order.

Refund of appeal fee

30. As the ground of the appeal has been made out, the appeal fee is to be refunded in full. This will take approximately six weeks to process.

Date issued to parties: 7 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.
