VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal appeal: Local Government Finance Act 1988; hairdressing salon and premises; unit price per square metre disputed; proposed end allowances were disputed; appeal allowed in part.

APPEAL NUMBER:	CHG101148325		
RE:	4--6 The Courtyard, St James Street, Taunton, TA1 1JR (the “subject property”)		
BETWEEN:		Combers Limited	Appellant
		and	
		Lucy Formela-Osborne (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*		
ON:	08/08/2024 10:00		
BEFORE:	Mrs R Heald, Senior Member Mr P Phelps, Member		
CLERK:	Mrs S D Morgan		
APPEARANCES:	Mr R Storr – Appellant’s representative (Altus Group) Mr A Durrant – Valuation Officer’s representative		

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.

2. The appeal property’s current assessment was reduced from £29,500 Rateable Value (RV) to £28,000 RV with effect from 17 March 2023, as conceded by the valuation officer’s representative.

Introduction

3. This is a 2017 rating list appeal. The subject property had been entered in the 2017 Rating List as ‘hairdressing salon and premises’ at a RV of £29,500 with effect from 17 March 2023.

4. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO). After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 11 March 2024 and his representatives then appealed the VO’s decision to the Tribunal on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

5. Mr Storr appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a contingency fee basis. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Storr’s’ declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client’s case.

6. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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. Mr Durrant appeared as advocate and expert witness on behalf of the Valuation Officer.

8. The hearing was held remotely via Microsoft Teams.

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

Background

10. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during the challenge process which included comparable assessments, rental evidence, location plans, photographs of the subject property and their skeleton arguments.

11. Following the initial check stage in 2022 the assessment was increased to £32,500 RV by removing the 50% allowance on the ground floor area. The subject property was reassessed by zoning from The Courtyard, all in zone A, rather than Lower Middle Street. The valuation officer’s representative could offer no explanation as to why the subject property was zoned from Lower Middle Street for the 2010 list when the entrance to the premises was from The Courtyard. The increase o £32,500 RV was challenged, and the RV was reduced to £29,500 RV. This is the contested figure for this appeal.

12. The subject property is a Hairdressing Salon and Premises situated within a courtyard development off St James Street in Taunton. There are 10 numbered properties in The Courtyard. Two of the properties front onto St James Street. The Courtyard has access from St James Street and also via an archway to Lower Middle Street adjacent to the subject

property. The subject property sits in the corner of The Courtyard in what is described as a shielded location. It is effectively two units with interconnection on the ground and first floor which are both retail areas. There is a doorway access between the two-ground floor areas and a change in level of four steps.

13. The issues in dispute were as follows:

(a) The price per square metre in the valuation. The valuation officer had applied £350/m^2 (in terms of zone A), but the appellant sought a reduction to an unadjusted rate of £235/m^2.

(b) The appropriate end allowances to be applied.

(c) The appellant contended that the effective date should be 1 April 2017 whilst the valuation officer believed that 17 March 2023 was the correct date.

14. At the hearing, the appellant's representative sought a revised RV of £22,000 with effect from 1 April 2017 and the VO's representative sought a revised RV of £28,000 with effect from 17 March 2023. A joint inspection was carried out on 24 May 2024.

Relevant Law

15. Rateable value is to be determined in accordance with paragraph 2(1) of Sch.6 to the Local Government Finance Act 1988, which provides:

"(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.

Discussion

16. The subject hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

17. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date

(AVD). This common date was used to ensure that every property was treated in a consistent way.

18. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day was 1 April 2017.

19. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

20. The starting point for consideration was the actual rent passing on the subject property. The property is held leasehold by the occupier Combers Ltd. The property is 3 units known as 4, 5 and 6 The Courtyard. Units 4 and 5 are owned by a director of Combers Ltd who pays £10,000 pa for the units. There is no formal lease agreement, and the rent has been the same amount for the last 10 years. Unit 6 is owned by a pension company which is linked to a director of the occupier. The current rent being £9,000 pa from the start of a 10-year lease commencing on 9th August 2018. The previous rent being £8,700 pa from 2003. The total rent payable of £19,000 pa devalues to £213.16/m^2 ITZA but is between connected parties.

21. In determining the unit price per m^2 in terms of zone A, the appellant's representative contended that the subject property was overvalued at £350/m^2 and that it should be valued at no more than £235/m^2 for zone A. He referred to three comparable properties at 45 St James Street, 20 Lower Middle Street and the Riverside Restaurant, Riverside Place, St James Street in Taunton.

22. 45 St James Street had retail on the ground floor and office accommodation on the first floor. It is a similar size to the subject property, and it fronts directly onto St James Street. This property is assessed at £275/m^2. The valuation officer's representative's comments were that this property was around 30% larger than the subject property and there was a considerable age difference. The 2011 rent was too far away from the AVD to be useful, and the Form of Return indicated that it was between connected parties. The assessment does include a 5% end allowance for position.

23. 20 Lower Middle Street is similar in age to the subject property and is over three floors with retail on the ground and first floors. The appellant's representative believed that this street had a higher level of footfall due to the car parks nearby. The zone A rate of £235/m^2 and the RV of £15,000 is supported by the rent passing on this property. The valuation officer's representative's comments were that this was a shell rent which analysed to £232.77/m^2. This assessment includes a 5% end allowance for poor layout.

24. Riverside Restaurant is a newer property and is over two floors with retail areas on both floors. It is similar in age to the subject property and is assessed at £325/m^2 zone A. The valuation officer's representative's comments were that there is an age difference between this and the subject property. The Form of Return gave a new 10-year 8-month lease from September 2012. The rent of £32,000 pa analysed to £417.43/m^2 but is too far away from AVD to be useful. This assessment includes a 5% end allowance for layout and a 5% end

allowance for size which are reflected in the zone A rate and a 5% end allowance for poor layout over the whole property.

25. The appellant's representative contended that the subject property, being much larger than most in this location, should be compared with other large units of around 200/m^2. He considered the hampered footfall due to its position in The Courtyard brought it into line with comparable properties within the locality. He believed that 20 Lower Middle Street is the best guide to value at £235/m^2 Zone A rate and fits within the range of values from the direct rental evidence. He proposed a rate of £235/m^2 be applied to the subject property.

26. In relation to the effective date, the challenge was made against the Valuation Office Rating List alteration dated 17 March 2023 increasing the previous RV of £25,000 that was effective from 1 April 2017. The valuation officer was restricted to the same effective date as the list alteration date as the compiled list inaccuracy was to increase the RV. The appellant's representative considered that the alteration was incorrect and that as his proposed RV of £22,000 is lower than the compiled list RV of £25,000, the correct effective date should be 1 April 2017.

27. In support of his case, the valuation officer's representative referred to rental evidence for three properties in The Courtyard and St James Street that were all within the same valuation scheme as the subject property. He believed that these three comparable properties supported the existing tone for the subject property.

28. There was a Form of Return held on 3 The Courtyard which referred to a renewed 15-year lease from March 2015 (close to AVD). The rent analysed to £447.91/m^2.

29. The Form of Return held on The Courtyard 7 St James Street referred to a new 6-year lease from February 2014. The rent analysed to £371.58/m^2.

30. A Form of Return held on 1 St James Street referred to a new 10-year less from August 2014. The rent analysed to £410.45/m^2.

31. In considering the information held on these three comparable properties, the valuation officer's representative believed that the existing level of value of £350/m^2 did not appear excessive.

32. In relation to end allowances, having recently inspected the subject property and in considering the photographic evidence, the valuation officer's representative accepted that end allowances were justified to include access, differing floor levels, merger of properties, masking and width to depth ratio. He contended that a 17.5% allowance to cover these disabilities was appropriate and in doing so sought a revised RV of £28,000 with effect from 17 March 2023.

33. The panel examined the evidence presented by the parties. Looking at the level of value to begin with, it found that the rents passing on the subject property were between connected parties and therefore little weight was given to these rents. Turning to the appellant's representative's comparable evidence, the panel considered this to be less reliable due to the rents being further away from the AVD. The rents passing on the three comparable properties put forward by the valuation officer's representative were close to AVD and were found to be more persuasive in supporting the existing £350/m^2 zone A price. They were in the same location and on the same valuation scheme as the subject property. The panel

found this to be good evidence and concluded that £350/m^2 appeared reasonable for the subject property.

34. In relation to footfall, there was no substantive evidence put forward to support this argument and therefore the panel could attach little weight to it. With regard to the end allowances, the panel found that the 17.5% conceded by the valuation officer's representative for various disability elements appeared fair and reasonable. In accepting the valuation officer's valuation of £28,000 RV, the effective date is 17 March 2023.

35. The panel's decision results in the following revised valuation:

Floor	Description	Area m^2/unit	£ per m^2/unit	Value
Ground	Retail zone A	32.20	350.00	11,270
Ground	Retail zone A	49.30	350.00	17,255
First	Treatment Rooms	30.50	21.88	667
First	Treatment Room	47.10	35.00	1,649
First	Retail Area	50.90	35.00	1,782
	Air Conditioning	210.00	7.00	1,470
				34,093
		End allowances	-17.5%	-5,966
				28,127
			say	28,000

Disposal

36. 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 respondent to reduce the entry in the rating list to rateable value £28,000 with effect from 17 March 2023.

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

Refund of appeal fee

38. 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: 4 September 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.
