VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal: Local Government Finance Act 1988; shop and premises; zoning; structural wall; appeal allowed in part

APPEAL NUMBER:	CHG101153107	
RE:	21A Landor Road, London, SW9 9RT (the "appeal property")	
BETWEEN:	Xiaoli Wei	Appellant
	and	
	Lucy Formela-Osbourne MRICS (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	Tuesday 10 September 2024	
BEFORE:	Mr Amran Hussain (Presiding Senior Member) Mrs PA Crowther-Newman (Senior Member)	
CLERK:	Miss K Hendry IRRV(Tech)	
APPEARANCES:	Ms Wei (the Appellant) Mr Lee (Translator for the Appellant) Mr Mak (Respondent's Representative)	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal was allowed in part.

2. The Tribunal panel confirmed the Rateable Value (RV) for the appeal property at £17,500 with effect from 1 April 2023.

Introduction

3. This was a 2023 Rating List appeal. The subject property had entered the 2023 Rating List as ‘Shop and premises’ at an RV of £18,250 with effect from 1 April 2023.

4. The challenge proposal was submitted by the appellant which was received by the Valuation Officer (VO) on 3 November 2023. The appellant disputed the areas and zoning method that had been applied.

5. The VO inspected the property on 31 January 2024 which resulted in a reduced RV. A VO challenge decision notice was issued on 4 March 2024 reducing the RV to £18,000 with effect from 1 April 2023.

6. 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 is not reasonable. The appeal was received by the Tribunal on 3 April 2024.

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

Background

8. The appeal property was a shop and premises which comprised the ground floor and basements. It was located on a small parade to the east of Landor Road, with Clapham North station within walking distance.

9. Prior to the hearing, both parties provided additional evidence which neither party objected to. At the hearing Mr Mak asked the panel to exclude email trail to the appellant which he had marked as ‘without prejudice’. However, the panel noted that he had not made any settlement offer and the information within the emails contained the same information he had already exchanged with the appellant in attempting to explain how the properties RV had been calculated. Therefore, the panel saw no reason to exclude this from the proceedings given the appellant was unrepresented, the panel felt it in the interest of justice to admit all the evidence.

Relevant Law

10. Part III of the Local Government Finance Act 1988 (the “Act”) makes provision for the payment of a non-domestic rate in respect of non-domestic hereditaments in England. The rateable value of a non-domestic hereditament, which is used to determine the amount of the rate payable, is defined at paragraph 2(1) of Schedule 6 to the Act (which is commonly referred to as the “rating hypothesis”).

11. For these proceedings, it is not necessary to set out all the provisions but suffice it to say that the rateable value of any hereditament is to be taken to be the amount, determined in accordance with the statutory assumptions, equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year, on 1 April 2021 (the “antecedent valuation date”).

12. The panel referred to references made concerning: The Royal Institution of Chartered Surveyors (RICS) Code of Measuring Practice:

Zone – The zoned area will include any space created using non-structural walls or partitions. This effectively means that non-structural partitions are ignored when using the zoning method.

Partitions – where these, are non-structural they should normally be ignored for zoning purposes although part of the rateable hereditament. In the majority of cases, for both analysis and valuation it will be appropriate to zone through non-structural walls.

Discussion

13. The appellant was unhappy with the lack of consistency when it came to the VOA applying a RV for her property. The appeal property had been measured on multiple occasions and each time, it resulted in a different RV. Furthermore, the appellant was of the opinion that that it had not been valued consistently with the neighbouring properties as her RV was much higher despite being similar in size.

14. The appellant also disputed how the VO had applied the zoning method. According to the VOA website, each zone should be no greater than 6.1m. However, zone B had been measured and calculated at a depth of 7.62m. The staffroom had been valued at a higher rate as retail at £225/m^2 in comparison to neighbouring properties which had staff room valued at £56.25/m^2.

15. In response Mr Mak confirmed that he had inspected the appeal property on 23 August 2024 and found the total area was 98.3m^2, however the area in terms of main space was calculated to 39.36m^2 which equated in a revised RV of £17,500. He explained that shops similar in overall size can have different RV’s as it was all dependent on the ‘in terms of main space’ calculation.

16. He confirmed that the appeal property had always been measured on the two zoning method, which was not unusual for secondary location shops. He pointed to a copy of a previous plan from 31 January 2024 which showed it had been measured on two zones. Mr Mak stated that the staff room consisted of temporary wall partition and as it was not a structural wall, the zoning method continued straight through and a lower rate could not be applied to the staff room.

17. The panel considered the details provided by each of the parties and held that the RV was not unreasonable. The panel were satisfied that the VO had measured the appeal property in accordance with the RICS code of measuring practice and that the neighbouring shops had also been measured in the same way.

Disposal

18. In view of the above findings and conclusions, the panel was satisfied that the appeal property had been correctly valued using the zoning method. Therefore, the panel confirmed the RV of £17,500 and the appeal was allowed in part.

19. 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 hereditament’s entry in the rating list to £17,500 RV with effect from 1 April 2023. The respondent must comply with this order within two weeks of its making.

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

Date issued to parties: 30 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.

Addendum

Following the release of the decision document on 30 September 2024, an error was identified. The decision was recorded as appeal dismissed, when it should have been allowed in part. The panel confirmed the RV of £17,500 with effect from 1 April 2023.

These errors have now been corrected following authorisation by the Valuation Tribunal for England under regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009

Reissued: 18 October 2024