VALUATION TRIBUNAL FOR ENGLAND

2023 Rating List Appeal: Local Government Finance Act 1988; Shop and premises being used as offices; Accuracy of compiled list entry; rental evidence; comparable evidence; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; Appeal dismissed.

APPEAL NUMBER:	CHG101165080
RE:	TAXCA Accountants Ltd,353 High Street North, London,E12 6PQ (the "subject property")

BETWEEN:	TAXCA Accountants Ltd	Appellant
	and	
	Andrew Ricketts (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	22 August 2024
BEFORE:	Mrs T Watson, Presiding Senior Member Mr S Mustafa, Senior Member
CLERK:	Mrs J Routledge IRRV(Tech)
APPEARANCES:	Mr Patel representing the appellant company. Mr V ParamaParmasivam representing the respondent

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DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel found that the assessment of the subject property on a zone A rate basis was not erroneous as it was likely that vacant and to let it would be rented as a shop. The panel also found the existing entry in the Rating List of £25,500 was reasonable having taken into account the comparable evidence.

Introduction

3. This was a 2023 rating list appeal. On 22 March 2024, an appeal was lodged against the Valuation Officer's (VO) Challenge Decision Notice of 30 January 2024 on the grounds that the entry in the list was unreasonable.

4. The proposal was seeking a reduction from the zone A rate of £530 per m^2 to an overall rate of £131 per m² to be applied to the assessment, this would reduce the rateable value from £25,500 on 1 April 2023 to £18,500.

5. The proposer also sought a change in the description of the property from shop and premises to office and premises.

6. Mr Parmasivam provided a declaration of truth which included a statement that he was not instructed under any conditional fee arrangement and 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 the professional body regardless of whether the evidence supported the respondent's case.

7. As part of their induction training, a new member of the tribunal was observing proceedings. It was explained to the parties that it was the panel's intention to invite the colleague to accompany it to the retiring room. The parties were assured that the new member would not participate in the decision-making exercise but would simply observe as part of their training. Neither party raised any issues or objections to this.

8. With the agreement of the parties the panel varied the procedure outlined in the Consolidated Practice Statement PS8 - Model Procedure and requested the respondent to present his evidence first.

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

Background

10. The subject property was a former shop that had been brought into the Valuation List originally in October 1994 as a shop. It had been fitted out as an Accountants Office situated in a parade of shops in High Street North London in the borough of Newnham. It was currently valued as a shop with a rateable value of £25,500.

Relevant Law

11. The term ‘rateable value’ is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

12. “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 –

    (1) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

    (2) 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;

    (3) 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”.

13. 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 (as amended).

14. 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 2021.

Discussion

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

16. Mr Parmasivam on behalf of the VO advised that the valuation approach was that each hereditament must be valued by reference to its use and it is assumed that this use would continue. The category of use to be considered is usually obvious and generally speaking should not be too narrowly interpreted. e.g., a shop is a shop and not any particular kind of shop etc. In *Williams (VO) v Scottish & Newcastle [2001]* the Court of Appeal decided that a licensed premises/pub located in a retail unit in a shopping centre was in a different mode or category to the shops. This was mainly due to the fact that the physical changes required to convert the pub back to the shop went beyond

minor alterations and therefore could not be assumed to be in the mind of the hypothetical tenant. On the other hand and in another prominent case *Fir Mill Ltd v Royton UDC and Jones (VO) [1960],* the courts decided that a cotton mill was in the same mode or category as a factory. In this case the subject had been a shop and was likely to be rented as a shop in the future as the valuation is based on vacant and to let. Once the temporary partitions and office furniture had been removed it would function as a shop.

17. The VO had identified other properties including the one next to the subject property in the parade that were assessed as shops but were being used as offices to support the assessment of the subject property.

18. Mr Parmasivam advised that the descriptor could be changed in the list to office and premises but this would not change the valuation itself. This was based on the principles within *Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council (1976 RA141).* Taking the rent into account, the rent on comparable properties and an overall consideration of the rental potential in the area the RV was considered reasonable.

19. The Appellant contended that the subject property was used as offices and therefore should be valued as an office and assessed on an overall basis. If it were valued as an office the business rates would be reduced, currently it was valued as a shop but the billing authority would not grant the retail rate relief of 75% which effectively put the appellant at a considerable financial disadvantage over the other shops in the parade. He identified a property PT Gnd Floor at 329, High Street North, London, as an assessment of an office.

20. The panel noted that the LO accepted that the descriptor could be altered to office and premises and the panel hoped this may assist the Appellant with the billing authority.

21. The panel found that PT Gnd Floor at 329 High Street North, London had been converted from part of a domestic property and had entered the list as an office, it had never been a shop and would be viewed as an office when vacant and to let. This was the reason it was listed and assessed as an office on an overall basis. It could not be accepted as supporting the Appellant's argument that the RV was unreasonable as the assessment should be on an overall basis at a lower price per m^2 as it was not the same type of premises.

22. The appellant advised that the subject property had been a complete shell with no fittings etc when it was taken over. The partitions and flooring had been fitted, there was now air conditioning and it had been decorated, there was corporate signage in the waiting room, an appointment was required to visit the premises. Therefore it was an office and will continue to be an office for the foreseeable future as the lease had a further eight years to run.

23. During questions, it was confirmed by the appellant that the office furniture was free standing, and the partitions could be removed with minimal damage to the structure of the building.

24. The panel understood why the Appellant had challenged the RV in this case, and had considerable sympathy with him. He was operating an office within what had been shop premises but was unable to access the business rate discount that other shops nearby had access to through the billing authority business rates scheme. The Tribunal has no jurisdiction over the decisions of the billing authority in that respect.

25. Unfortunately for the Appellant the panel was required to apply the legislation and caselaw that is binding on the Tribunal. The panel had to consider how the subject property would be used by a new tenant viewing the property without the furniture and fittings installed by the Appellant, the rent being paid on the subject property and the rents being paid on similar properties in the same parade to establish what a reasonable rent would be for the subject property if it were for let on 1 April 2023.

26. The panel found the subject property had been a shop since 1994 and it was situated in a parade of shops. There had been considerable alterations and improvements made by the Appellant, however none were structural and did not alter the intrinsic character of the property. The panel considered it was most likely that the hypothetical tenant coming fresh to the scene would view it vacant (with the furniture and partitions removed) and to let as a shop and therefore the assessment should be as a shop on a zoned basis.

27. The panel then considered whether the RV was reasonable. The panel had regard to the principles in *Lotus & Delta.* The rent on the subject property from 1 September 2021 five months after the AVD was £24,000 per annum which analyses to £495.66 per m^2 this was given some weight. Two other shops within the parade were provided as comparable properties. 321 High Street North was a lease renewal on 1 September 2020 and analysed to £801.08 per m^2, the panel placed less weight on this as it was further from the AVD and a renewal. The second comparable 347 High Street North was a new lease from 1 May 2021 one month post AVD which analysed to £707.15 per m^2. This was given some weight by the panel although it included living accommodation, it was considered indicative of the rents being achieved in the parade.

28. Having considered the starting point of the rent on the subject property at £495.66 per m^2 and taking into account the rents on other comparable properties in the parade the panel then considered the tonal evidence of offices and premises at 313, 304 and 342 High Street North which had adopted values of £530 per m^2 and £575 per m^2 respectively, the zone A rate of £530 for the subject property which was at the lower end of the range of RVs for offices in the parade was considered reasonable by the panel.

Disposal

29. In view of the above findings and conclusions, the Tribunal Panel is satisfied that taking into account the basket of evidence the panel found that the RV of

£25,500 from 1 April 2023 for the subject property was correct. Therefore, the appeal was dismissed.

Date issued to parties: 19 September 2024

Reissued due to error in the recording of the Respondent's representatives name in accordance with Regulation 30 of the Valuation and Community Charge Tribunals Regulations 1989.

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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.