

VALUATION TRIBUNAL FOR ENGLAND



Non Domestic Rating Appeal; 2017 Rating List; Challenge against Valuation Officer Notice, Shop & Premises, Analysis rental evidence in respect of comparable properties; Lotus & Delta v Culverwell (VO) [1976] RA 141, Appeal Allowed In Part.

RE: Shop & Premises, 2 and 6 Acton Lane, Harlesden, London, NW10 8TS

APPEAL NUMBER: CHG100013693

BETWEEN: Mr Philip James Appellant

and

Andrew Corkish Respondent
(Valuation Officer)

PANEL: Mrs J Ellis
Mrs V Hollender

SITTING AT: Tribunal Office, 120 Leaman Street, London E1 8EU

ON: 31st January 2019

APPEARANCES: Mr P James (Appellant)
Mr A Baker (Representing the respondent)

Summary of Decision

1. The appeal is allowed in part. The panel determines the rateable value (RV) of the appeal property to be £16,000 with effect from 20 October 2017.
2. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as having been overlooked by the Panel.

Introduction

3. The appeal arose following a challenge against a Valuation Office Notice increasing the appeal property's entry in the 2017 Rating List to £18,250 with

effect from 20 October 2017. The appellant's challenge to the Valuation Officer made on 15 January 2018, the Valuation Officer's challenge decision was given on 20 June 2018 and the appellant's appeal to the Valuation Tribunal was made on 29 August 2018.

Issues

4. The issue for the panel to determine was the correct rateable value to be attributed to the appeal property in the 2017 Rating List from 20 October 2017, the effective date of the Valuation Officer Notice increasing the entry to £18,250.

Discussion and Evidence

5. The appeal property was described as shop and premises and was currently occupied by the appellant trading as an optician. It was located on Acton Road, a side road off High Street, Harlesden, with the appeal property separated from the High Street by Manor Parade. The current rent passing on the appeal property was £24,000 per annum (pa) on a lease first assigned in 2003 on upward only rent reviews. The appellant had first occupied the appeal property in 2006.
6. The appeal property had been entered in the 2010 Rating List at rateable value £11,250, based on a tone value of £250 per square metre (psm) for Zone A. It had been first entered in the 2017 Rating List on the basis of a Zone A rate of £450 psm, although this had been reduced by the Valuation Officer to £400 psm during the 'check' stage of the 'check, challenge and appeal' process. However, during the early stage of the process, the Valuation Officer identified that the appeal property benefited from air conditioning which led to the service of a Valuation Officer Notice increasing the overall rateable value to £18,250 with effect from 20 October 2017, which was the subject of the appeal.
7. Mr James, the appellant, contended that little weight should be attached to the actual rent passing on the subject property. It was his view that the original tenant did not negotiate the rent of £24,000 pa robustly when the lease was drawn up in 2003, and, in consequence, as the rent reviews were upwards only, the rent had not altered in the life of the lease since that date. It was his contention that at the last rent review, a local agent had estimated that the open market rent would be no more than £18,000 pa.
8. He considered that a more reliable measure of value might be drawn by comparison between the Zone A rates applied to both the appeal property and properties situated in other parades within the locality. He contended that in the 2010 List, properties in the primary location of the High Street had been valued at a Zone A rate of £400 psm, while in the 2017 List they had been valued at £450 psm, an increase of 12.5%. Similarly, in the 2010 List, properties in the secondary locations of Craven Park Road and Park Parade had been valued at £300 psm for Zone A, and £375 in the 2017 List, an increase of 25%. He added that Manor Parade properties, another secondary

location had risen from £300 to £450 psm between Lists, an increase of 50%, while the appeal property, in his view, at a tertiary location, had risen from £250 to £400 psm for Zone A, an increase of some 60%, which he considered to be disproportionate with the increases in values between lists at all the other locations.

9. It was Mr James' contention that his designations of primary, secondary and tertiary for the locations was supported by general footfall and subsequent distance and visibility from the High Street. It was his view that as the appeal property was valued at 20% less than the values attributed to the properties in Craven Park Road, Park Parade and Manor Parade in the 2010 List, that is £250 psm for Zone A against £300 psm, a similar differential should apply in the 2017 Rating List. He concluded that as Craven Park Road and Park Parade had been valued at £375 in the 2017 List, the appeal property should be valued at 20% less, namely £300 psm for Zone A.
10. Thus, he concluded by presenting his valuation of the appeal property, based on £300 psm, albeit without an uplift for air conditioning, at rateable value £13,618.
11. Mr Baker, representing the Valuation Officer, reminded the panel that the basis for the 2017 Rating List was the open market annual rent that could reasonably be expected to have been achieved for the appeal property at the antecedent valuation date (AVD) of 1 April 2015. As the AVD for the 2010 Rating List was 1 April 2008, he contended that any analysis between the values attributed to properties in the Rating Lists would be unreliable, as valuations were carried out afresh for each list to reflect changes in the property market between the respective AVDs and the availability of relevant rental evidence.
12. He accepted the appellant's contentions that the actual rent on the appeal property, at £24,000 pa, may not be a true reflection of its open market value on 1 April 2015, as the lease had commenced in 2003 with upwards only reviews. He also noted that the terms of the rent did not accord with the statutory definition of rateable value provided by paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 (as amended), as the tenant was not liable for fully insuring the property.
13. In the absence of evidence in respect of a reliable open market rent for the subject property, under the principles established in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, the Valuation Officer had looked to analyse rental evidence in respect of similar properties in the locality to establish the level of rent that might otherwise be achievable for the appeal property at 1 April 2015.
14. To that end, Mr Baker presented a schedule of rental evidence which he considered supported the tone values adopted in the List for both the comparable properties and the appeal property. The schedule contained evidence in respect of properties close to the appeal location in High Street, Harlesden, with rents, in the date range 2013-15, which analysed in the range

of £394 to £590 psm in terms of Zone A. He considered that collectively, this evidence supported the adoption of £450 psm for Zone A for the High Street.

15. However, it was Mr Baker's opinion that the most comparable properties to the appeal location were to be found on Manor Parade, as it was physically adjacent to the appeal property. The schedule of rents that he presented contained evidence of rents in Manor Parade that had been agreed between January 2013 and April 2016 at values which analysed to £412, £619 & £600 respectively in terms of Zone A. He considered that this evidence supported the contention that Manor Parade should be valued at a similar level to the High Street and so £450 psm for Zone A had been adopted for the 2017 List entries.
16. He accepted that the appeal property was set back from the shops in Manor Parade, and to reflect this factor, the Valuation Officer had adopted £400 psm for Zone A at the appeal property, rather than £450 psm.
17. He invited the panel to attach little weight to the comparable properties presented by the appellant at Craven Park Road and Park Parade as these properties were not located in close proximity to the appeal property, unlike the rental evidence he had presented in respect of Manor Parade and High Street.
18. Having analysed the rental evidence, he concluded that the adoption of a Zone A rate of £400 psm for the appeal property was reasonable and presented his valuation of the appeal property accordingly at rateable value £18,250.

Decision and Reasons

19. Having carefully considered the parties respective submissions, the panel reaches the following conclusions.
20. The panel is satisfied that, for the purposes of the 2017 Rating List, it must seek to assess the value of the appeal property as the open market annual rent that could reasonably be achieved for it at the antecedent valuation date of 1 April 2015, as set out in the statutory definition of rateable value provided by paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988 (as amended).
21. In this case, while the panel notes the parties' respective submissions regarding the underlying value of the appeal property in the 2017 Rating List, it also notes that the list entry subject to the appellant's challenge, and the subsequent challenge decision by the Valuation Officer, relates to the property's entry in the List at £18,250, with effect from 20 October 2017. The panel is therefore satisfied that it is constrained to considering only that entry for the purposes of this appeal, and not the value attributed to the property earlier in the 2017 List.

22. The panel notes and accepts the parties' respective submissions regarding the relevance of the passing rent on the appeal property of £24,000 pa, having been set at the start of the lease in 2003 and having remained unaltered in the intervening period as it was subject to upwards only reviews. In consequence, the panel also finds that little weight should be placed upon it for the purpose of assessing value in the 2017 List.
23. In the absence of reliable rental evidence in respect of the subject property itself, the panel accepts the Valuation Officer's contention that, in line with the principles set out in *Lotus & Delta*, the next best evidence will be that in respect of the open market rents passing on comparable properties with new lettings close to the AVD of 1 April 2015.
24. On that basis, while the panel notes the appellant's analysis of the changes in the adopted Zone A values for properties at a number of broadly comparable locations, it considers that greater weight should be attached to the rental evidence and analysis presented by the Valuation Officer.
25. In consequence, the panel notes and accepts the Valuation Officer's evidence that the rental evidence in respect of High Street, Harlesden, and Manor Parade, supports the adoption of £450 psm for Zone A for those locations. The panel also notes the Valuation Officer's evidence that appeal property, being physically next to Manor Parade, but set back from it, should be valued at £400 psm for Zone A.
26. However, the panel accepts the appellant's evidence that the appeal property is considerably disadvantaged in relation to the comparable properties in Manor Parade, as it is both set back from Manor Parade, and a greater distance from the primary location of the High Street. Notwithstanding the Valuation Officer's observations regarding the distance between the appeal property and the comparable property advanced by the appellant in Craven Park Road, which had an adopted value of £375 for Zone A, it was the panel's opinion that the location of that property was more comparable to that of the appeal property than those situated in Manor Parade and High Street.
27. Furthermore, it is the panel's view that the Craven Park Road comparable had a superior location to that of the appeal property, as Craven Park Road was, in effect, the continuation of the High Street in terms of footfall and traffic flows.
28. Therefore, having established that the superior Craven Park Road comparable property was valued at £375 psm for Zone A, the panel finds that the appeal property should be valued on the basis of £350 psm for Zone A. Having adopted £350 psm for Zone A, using the Valuation Officer's floor areas, relativities and uplift for air conditioning, the panel determines at the revised valuation of £16,049, rounded to rateable value £16,000, with effect from 20 October 2017.

Order

29. Under the provisions of Regulation 38(2) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to alter the Valuation List within two weeks of the date of this order to show the rateable value for 2 and 6 Acton Lane, Harlesden, London, NW10 8TS at £16,000 with effect from 20 October 2017.

Date: 1 March 2019

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