

THE VALUATION TRIBUNAL FOR ENGLAND



*Non-Domestic Rating; 2010 Rating List; Showroom and Premises; Value of main rate; comparables; split unit; sloping site; End Allowances; Rent; Comparable Properties; Appeal Allowed in Part*

RE: 204 Colney Hatch Lane, London N10 1ES

APPEAL NUMBER: 509023658364/537N10

BETWEEN Chris Stevens Ltd Appellant

And

Mike J Dunlevey BSc (Est Man) MRICS Respondent  
(Valuation Officer)

PANEL: Mr A Chesters (Chairman)

Dr P Catterall

SITTING AT: VTS Offices, Lemn Street, London E1

ON: 16 September 2015

APPEARANCES:

Mr H Makhdumi of Evans & Payne for the Appellant

Mr C Golding of the Valuation Office Agency (VOA) for the Respondent

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**Summary of Decision**

1. Appeal Allowed in Part: The Rateable Value of 204 Colney Hatch Lane, London N10 1ES is £260,000, with effect from the 8 April 2013.

**Introduction**

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 being overlooked by us.

3. This appeal has been brought in respect of the following: A proposal made by the Appellant's representative to alter the entry made by the Valuation Officer (VO) into the 2010 Rating List with effect from the 8 April 2013 for 204 Colney Hatch Lane, London N10 1ES of Showroom and Premises, Rateable Value (RV) £345,000, was received by the VO on the 12 February 2014. Agreement between the VO and the Appellant on this proposal had not been possible and the matter was therefore referred to the Valuation Tribunal for England as an appeal under Regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 SI 2268.
4. The appeal property consists of two units one on the front site which is visible to the street consists, at the front of it, some retail area with a store to the rear and some offices to the side and stores on the first floor. The rear building is used in a similar fashion with ground floor sales area, this area is mainly used for tiles and taps and showers, with a store to the side on the ground floor. The first floor is all warehouse storage. In essence, both buildings are warehouses with part of the premises used as sales areas.
5. The appeal property is located on a mainly residential road running from Friern Barnet, crossing over the North Circular Road, and running up towards Muswell Hill Broadway, which is the main retail location in this area. Either side of the site, and also opposite, there are just residential houses, mainly terraced.
6. The VO wanted to introduce evidence under Regulation 17 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 S.I. 2268 in his statement, Mr Makhdumi did not object to this but wanted to point out that he had made several attempts to engage with the Valuation Office Agency during the discussion period without any reply. The VO also wanted to refer to comparable evidence within Friern Bridge Retail Park which was not included in his statement of case. After considering this evidence Mr Makhdumi once again did not object to its introduction and consequently the panel allowed this evidence to be submitted.

## **Issues**

7. The issue in dispute between the parties was the appropriate RV for the appeal property. Mr Makhdumi contended that a main rate of £120 m<sup>2</sup> should be applied, he also contended that the rear property should have a 5% allowance for being set back, a 5% for no natural light and a further 5% allowance should be granted to the whole site for being an awkward shape and a sloping site. He was also of the opinion that the first floor stores should be valued at a 50% rate of the ground floor stores. Mr Makhdumi was proposing a revised RV of £219,000.
8. The VO was no longer defending a main rate of £150 m<sup>2</sup> but a revised rate of £140 m<sup>2</sup> based on his revised analysis of comparable properties in the locality. He was also proposing a 5% allowance on the rear property for its location and lack of frontage and a further 5% to reflect disabilities to the retail parts. The VO also contended that the ground and first floor storage areas should be valued at the same rate. The VO was now proposing a revised RV of £312,500.

## Decision and Reasons

9. In deciding this appeal the Panel was governed by rating legislation laid down by Parliament which defines Rateable Value:
10. Schedule 6 to the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999, defined that the Rateable Value of a non-domestic property shall be taken to be the amount equal to the rent at which it was estimated the property might reasonably be expected to let on a year to year basis 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 the 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.
11. For the purposes of the 2010 Rating List the date at which this hypothetical letting is assumed to take place, the antecedent valuation date (AVD), has been set by Parliament as the 1<sup>st</sup> April 2008.
12. This appeal resulted from a proposal on the grounds that the entry in the list for the appeal property was incorrect from the date it was entered in the list by a VO alteration. The 'material day', i.e. the date matters referred to in Paragraph 2 (7) of Schedule 6 to the Act have to be looked at, for this appeal was therefore the effective date of this entry, i.e. 8 April 2013.
13. In making any determination as to a property's RV, the starting point is to look, where it exists, at the actual rent on the property. The closer the terms under which that rent was agreed are to the rating hypothesis the more assistance this evidence will give in deciding this value.
14. In this appeal there is a rent passing on the appeal property of £200,000 pa with effect from 2013 and it was between connected parties. The Panel consider that as this rent was not an open market rent and effective some 5 years after the AVD, it placed little weight on it.
15. The Panel consider that where there is no helpful rental evidence either from the subject property itself or from other comparable properties nearby, as it seems was the case in this instance, then the valuation basis being applied in the assessments of other comparable properties nearby can be useful in establishing a tone of value that might quite properly be applied in assessing the subject property. Such evidence will carry more weight where the assessments, from which this evidence is derived, have been tested under appeal.

16. The Panel considered the comparable evidence presented by both parties and found that the appellant arrived at his value of £120 m<sup>2</sup> based upon comparing the appeal property with a range of similar properties in the location. These properties ranged in ages, sizes and location and also ranged in values from £67.50 m<sup>2</sup> to £140 m<sup>2</sup> all dependent on their quality. Mr Makhdumi especially pointed out 1 Colindale Avenue NW9 which was in the same valuation scheme and was only built in 2012 and in his opinion comparable. This property was considered at another Valuation Tribunal hearing and a rate of £120 m<sup>2</sup> was confirmed even though this value has subsequently been reduced by agreement. Based upon considering all his comparable evidence and noting the decision on 1 Colindale Avenue, Mr Makhdumi arrived at a value of, in his professional opinion, £120 m<sup>2</sup> for the appeal property.
17. The VO in arriving at his revised value of £140 m<sup>2</sup> had regard to four types of property in the wider locality. He presented evidence on retail warehouses in the locality that had a tone of £200 m<sup>2</sup>; car showrooms that were valued at £140 m<sup>2</sup>; converted warehouses valued at £85 m<sup>2</sup> and off street showrooms valued at £125 m<sup>2</sup>. Having taken account of all of his evidence and the fact that the appeal property is newly (and purpose) built; the VO came to a professional opinion that a value of £140 m<sup>2</sup> for the main retail space was appropriate for the appeal property.
18. On considering the comparable evidence from both parties, the Panel found that they both accepted that there was not an established tone for this particular type of property but it fell within a range of values. The Panel also found that there was no direct comparable to the appeal property.
19. It was the Panel's opinion that the value proposed by Mr Makhdumi was too low considering the fact that the appeal property was newly and purpose built. However, it did consider that it was not situated within an established trading location and mainly in a residential area. The Panel came to the conclusion that taking account of both parties' arguments and their professional opinions on a proposed value, a rate of £130 m<sup>2</sup> for the main retail space is fair and reasonable for this particular property.
20. Mr Makhdumi's second issue was that part of the front property was actually store and offices; however the VOA had included this part as retail. At the hearing, it was accepted by the VO that that this area is not used for retail use and should not be valued as such. It was suggested that this area should be valued at 70% of the main retail space and this was accepted by the Panel.
21. Mr Makhdumi also argued that the appeal property should be granted allowances for its disadvantages. Mr Makhdumi proposed that a 5% allowance should be granted to the rear unit as it is set back and a further 5% for having no natural light. He also submitted that a further 5% allowance should be granted to the whole site to reflect the sites awkward shape, the slope and the restrictions on it for deliveries. Mr Makhdumi presented several comparable properties to show examples where allowances had been granted for similar circumstances.
22. The VO stated that he had adopted a 5% allowance on the rear property for its location and lack of frontage and a further 5% to reflect disabilities to the retail parts. It was his opinion an allowance should not be applied to the whole site as it was only the rear element that was disadvantaged.

23. The Panel found that a 5% allowance for disabilities associated with the rear property had been agreed and the Panel was satisfied that this included the disadvantage of no natural light and lack of frontage. However on the issue proposed by Mr Makhdumi of an extra allowance of 5% on the rear property for being set back and an overall allowance of 5% for the site being an awkward shape the Panel considered this to be double counting.
24. The Panel was in agreement that an allowance should be granted. However this should be on the whole site as any disadvantage associated with the rear property, being set back, would be included in this allowance. The Panel agreed with Mr Makhdumi that due to the sites shape and the slope it is awkward for customers to access both buildings and there are problems with loading and unloading for deliveries.
25. Having considered both parties argument on this issue the Panel accept that an allowance of 5% should be granted to the whole site which fairly reflects the awkward shape of the site the slope between the buildings and the fact that the rear building is set back.
26. Mr Makhdumi's last argument was that the first floor warehouses should be valued lower than the ground floor warehouses. In support of this, he presented evidence of other properties within the same scheme that have had their first floor stores valued at half the rate of the ground floor stores. He also referred to the VOA's valuation scales which stated that industrial properties which show first floor stores should be valued at 75% of the ground floor rate. Mr Makhdumi has adopted a rate of 50% based on a similar property at 16-18 Hale Lane which has first floor stores and was valued on this basis.
27. The Panel noted that the VO disagreed with Mr Makhdumi's argument. However; the Panel consider that the first floor stores are less valuable than the ground floor stores due to problems accessing them and should be valued at a lower rate than the ground floor.
28. The Panel are of the opinion that the rate of 50% proposed by Mr Makhdumi is excessive and it should be 75% in line with the VOA valuation scales for first floor stores in industrial properties.
29. The Panel also found that there was a difference in opinion on the value attached to the kitchen on the first floor; the VO had adopted a value of £95.55 m<sup>2</sup> whilst the appellant had adopted a value of £26.33 m<sup>2</sup> in line with the first floor stores. The VO was unable to provide an explanation of why a rate of £95.55 m<sup>2</sup> had been applied therefore the Panel consider that the kitchen should be valued in line with the first floor stores in the rear building.
30. Therefore in summary, the Panel have adopted a main rate of £130 m<sup>2</sup>, it has confirmed that the area within the front building is not retail and should not be valued as such. It has also decided to adopt a 5% on the rear property for its disabilities and a further 5% applied to the whole site for awkward shape and the sloping site. It has also decided that the first floor stores should be valued at 75% of the ground floor stores. It was noted by the Panel that an allowance of 2.5% has been applied to the stores due to lack of heating.

31. In conclusion the Panel confirm the following valuation;

### Front Building

#### Ground Floor

Showroom	551.14 m <sup>2</sup>	@	£130.00	=	£71,648.20
Offices	67.75 m <sup>2</sup>	@	£ 91.00	=	£ 6,165.25
Toilets	5.54 m <sup>2</sup>	@	£ 65.00	=	£ 360.10
Store	275.03 m <sup>2</sup>	@	£ 63.38	=	£17,431.40

#### First Floor

Store	502.32 m <sup>2</sup>	@	£ 47.54	=	£23,880.29
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### Rear Building

#### Ground Floor

Showroom	744.09 m <sup>2</sup>	@	£123.50	=	£91,895.12
Store	219.20 m <sup>2</sup>	@	£ 60.20	=	£13,195.84
Store	100.17 m <sup>2</sup>	@	£ 60.20	=	£ 6,030.24

#### First Floor

Store	644.60 m <sup>2</sup>	@	£45.15	=	£29,103.69
Kitchen	4.18 m <sup>2</sup>	@	£45.15	=	£ 188.73

Total £259,898.86

Minus 5% for awkward shape and sloping site £ 12,994.94

£246,903.92

Plus 53 parking spaces @ £250 £ 13,250.00

Total £260,153.92

**Say RV £260,000**

### Order

32. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the VTE orders the Valuation Officer to alter the 2010 Rating List entry in respect of 204 Colney Hatch Lane, London N10 1ES within two weeks of the date of this order to Shop and Premises, Rateable Value £260,000 with effect from the 8 April 2013.

Date: 6 October 2015

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