

THE VALUATION TRIBUNAL FOR ENGLAND



Non-Domestic Rating; 2010 Rating List; Shop and Premises; rental evidence; basket of rents; Comparison to other shops in locality; Appeal partly allowed

RE: 231 Westbourne Grove, London W11 2SE

APPEAL NUMBER: 560017324512/541N10

BETWEEN Liliane Fawcett T/A Themes & Variations Appellant

And

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

PANEL: Mr A Chesters (Chairman)

Dr P Catterall

SITTING AT: VTS Offices – London 2nd Floor, 120 Leman Street, London E1 8EU

ON: 16 September 2015

APPEARANCES:

Mr J Hoskins of Evans & Payne representing the Appellant

Mrs S Lai-Kit of the Valuation Office Agency (VOA) for the Respondent

Summary of Decision

1. Appeal partly allowed: The Rateable Value of 231 Westbourne Grove, London W11 2SE has been reduced to £136,000, with effect from the 1 April 2010.

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 to alter the entry made by the Valuation Officer (VO) into the 2010 Rating List for 231 Westbourne Grove, London W11 2SE, of Shop and Premises, Rateable Value (RV) £144,000, was received by the VO on the 20 August 2010. 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 comprises a shop on the ground floor only and is attached to several other units in a parade within Westbourne Grove. Mr Hoskins informed the Panel that he had recently inspected the appeal property and had it re-measured; he produced a plan which showed a total area of 203.13 m². Mrs Lai-Kit confirmed that she had not personally inspected the appeal property and as Mr Hoskins measurements and plans were more recent she was willing to accept these measurements as correct.

Issues

5. The issue in dispute between the parties was the appropriate Zone A rate to apply to the appeal property. The VO contended that a Zone A rate of £2,250 m² should be applied based upon the passing rent on the appeal property and the neighbouring properties. The appellant contended that a Zone A rate of £2,000 m² was more applicable based upon his analysis of the rents on the surrounding properties.

Decision and Reasons

6. In deciding this appeal the Panel was governed by rating legislation laid down by Parliament which defines Rateable Value:
7. 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.

8. 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 April 2008.
9. As this appeal resulted from a proposal on the grounds that the entry in the list for the appeal property was incorrect on the day the list was compiled 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, was the date the list was compiled, that being the 1 April 2010.
10. The Panel initially considered the rental evidence on the appeal property itself and was informed by the appellant that the appeal property did not have a full market rent therefore the Panel placed little weight on this evidence.
11. The Panel considered the rental evidence presented on 227, 227a, 233, 235, 237, 243 and 245 Westbourne Grove and the parties’ respective analysis of these rents. The VO contended that analysis of the rents which was between £1,972.15 m² and £2,439.12 m² on these properties clearly supported her proposed Zone A rate of £2,250 m². In her opinion the best evidence was on the neighbouring property of 233, the rent on this property was £155,000 pa with effect from 23 December 2004, it was on a 35 year lease with 4 yearly rent reviews the rent was reviewed in 2008 and 2012 with no increase. The VO pointed out that this rent analysed to £2,362.80 m².
12. The VO having accepted Mr Hoskins revised areas and applying her proposed Zone A rate of £2,250 m² stated that she was now defending a revised Rateable Value for the appeal property of £142,500.
13. The appellant had analysed the same rents as the VO, however it was his opinion the VO, on some of the rents, had not made the necessary adjustments before analysing them. He pointed out that on 237 Westbourne Grove a two bedroom flat was included in the rent which needed to be deducted, therefore after this deduction his analysis of the rent was £1,972.15 m² compared to the VO’s figure of £3,345.07 m². Mr Hoskins also pointed out that there was a nil increase in the rent at review in 2008 on 233 Westbourne Grove which in his opinion indicated that the rent passing, agreed before the opening of Westfield , was excessive.
14. Arriving at his value, Mr Hoskins stated that he had taken a broad view of the comparable evidence. In his opinion, the parade the appeal property is located in is isolated and the Zone A should be lower than the rest of Westbourne Grove. Mr Hoskins contended that taking the whole basket of rents into consideration the majority would suggest that a Zone A rate of £2,000 m² was more appropriate for this parade and requested a revised Rateable Value of £126,500.
15. On considering both parties’ analysis of the same rents, the Panel placed more weight on Mr Hoskins analysis as he presented his calculations and breakdowns of the rents. Whereas the VO did not present any calculations and was unable to provide any satisfactory explanation of how the VOA’s analysis had been achieved at the hearing.

16. Having considered all the rents within the parade, it was the Panel's opinion that based upon the average analysis of these rents it considers that a Zone A rate of £2,150 m² was more appropriate for this parade. The Panel have based this decision upon Mr Hoskins analysis of all the rents as it was more persuasive. The Panel also found that different Zone A values had been applied within Westbourne Grove and this particular parade stands alone.
17. Consequently having applied the revised Zone Rate of £2,150 m² to the areas and relativities provided by Mr Hoskins, the Panel arrive at the following valuation.

Floor	Area	PR's	Rate	Value
Ground Floor				
Zone A	25.28	1.00	£2,150	£54,352
Zone B	36.42	.500	£1,075	£39,152
Zone B	0.88	.333	£ 716	£ 630
Remainder	48.90	.250	£ 538	£ 26,308
Remainder	23.76	.167	£ 359	£ 8,530
Basement				
Store	67.89	.050	£ 108	£ 7,332
Total				£136,304
Say RV £136,000				

18. Therefore the Panel confirms a revised Rateable Value of £136,000 with effect from 1 April 2010.

Order

19. 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 231 Westbourne Grove, London W11 2SE to Shop and Premises, Rateable Value £136,000 with effect from the 1 April 2010. Under Regulation 38(9) the Valuation Officer must comply with this order within two weeks of the date of its making.

Appeal Number: 560017324512/541N10

Dated: 6 October 2015