

VALUATION TRIBUNAL FOR ENGLAND



*Non-domestic rating appeal; shop and premises; valuation office notice; appeal against amended 2010 rating list entry; comparables; rental evidence; appeal allowed.*

RE: 57 Ebury Street, London SW1W 0NZ

APPEAL NUMBER: 599019756563/537N10

BETWEEN:	Vexshire Limited and Mr M Dunlevey (Valuation Officer)	Appellant  Respondent
----------	---	-----------------------------

PANEL: Mr K Everett (Chairman)  
Dr P Catterall

SITTING AT: 120 Leaman Street London

ON: 15 April 2015

APPEARANCES: Mr J Hoskins for the appellant  
Mr R Bademosi for the respondent Valuation Officer

---

**Summary of Decision**

1. Appeal allowed, the rateable value was altered to £18,250 with effect from 1 April 2010.

**Introduction**

2. In accepting that the Valuation Officer's amendment to the rating list entry had reduced his client's financial burden, the appellant's representative withdrew his earlier compiled rating list appeal.
3. This subsequent appeal has been brought in respect of the following: a proposal submitted by Evans & Payne on behalf of the appellant against the amendment of the rating list entry to £20,750 rateable value with effect from 1 April 2010. It sought a reduction to £1 rateable value on the grounds that; the rateable value shown in the list by reason of an alteration made by the valuation officer was inaccurate; the entry should describe the correct extent of the hereditament and the entry was excessive, unfair, incorrect and/or bad in law.

4. As the Valuation Officer had not well founded the proposal, the matter was referred to the Tribunal under regulation 13 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No.2268).
5. Regulation 17(3) rental evidence was submitted by the Valuation Officer with his statement of case, as permitted by the Tribunal's Practice Statement A7-1. The panel accepted Mr Bademosi's explanation and admitted the evidence that had been further expanded, in the bundle provided at the hearing, into an analysed schedule. From the schedule of settled appeals against the assessments of comparable properties, the panel admitted the evidence that related to Nos. 59, 57, 61 and 63 Ebury Street.
6. 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 it being overlooked by the panel.

### **Issue**

7. The rateable value of the subject property.

### **Evidence and Submissions**

8. At the hearing Mr Hoskins submitted a bundle of evidence that included a GOAD plan of the locality, a floor plan of the subject property, external photographs of the subject property and its locality, details of the comparable neighbouring property, and revised valuation for the subject property at £18,250 rateable value with effect from 1 April 2010.
9. Mr Bademosi, for the Valuation Officer, provided the panel with a bundle that comprised a copy of his statement of case, a copy of the originating proposal, a rental summary that analysed the Regulation 17 (3) information, photograph of the subject property, street plan and schedule of comparable assessments. He sought dismissal of the appeal.

### **Decision and Reasons**

10. The panel established that the subject property was a ground floor retail unit under a multi storey block of flats. Ebury Street was designated one way for traffic travelling from the north past the subject property and up to the junction with Eccleston Street. Leading north from that junction, on the eastern side of the road, were six retail properties where the numbers fell from Nos.65-69 to No.57 and the subject property was the last in the row. There were no more retail units beyond that point, only offices and residential dwellings. On the opposite side of that part of Ebury Street were offices, residential dwellings and a doctor's surgery. Nos.54 and 54A were shown on the GOAD plan as offices, but were assessed for rating as shops.
11. At the hearing, Mr Hoskins confirmed his acceptance of the Valuation Officer's measured areas. As shown by the floor plan, the subject property was an irregular shape and a 5% allowance was agreed between the parties to reflect that.
12. In respect of an appeal against an entry in the 2010 rating list, the Rating Lists (Valuation Date) (England) Order 2008 (SI 2008 No.216) required the rental levels to be taken as at the antecedent valuation date (AVD) of 1 April 2008. The rental value was to represent the figure that a hypothetical landlord and tenant would come to, as a result of bargaining for that hereditament, in the light of the available evidence at that time. In respect of this appeal the hereditament had to be considered as if it were empty and to let, as it stood on the material day of 1 April 2010.

13. The Lands Tribunal judgment in *Lotus and Delta Ltd v Culverwell (VO) & Leicester City Council* [1976] RA 141 provided binding guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant; all of the evidence could then be given appropriate weight.
14. The panel established that the original 2004 rent on the subject property (ITMS 43.85m<sup>2</sup>) had been renewed after six years at £21,500 in May 2010, which was two years after the antecedent valuation date. According to Mr Bademosi that rent analysed at £472.22/m<sup>2</sup>. Mr Hoskins maintained that a dispute about that rent was resolved in late 2006 at £19,500, to avoid costly recourse to the arbitrator.
15. The neighbouring property at No. 59 (ITMS 75.46m<sup>2</sup>) was currently operating as Belgravia Books. It had been empty for more than two years when marketed for re-letting at £37,500; auction particulars were shown by Jones Lang LaSalle at £34,000; and by Nash Bond at £45,000. A 10 year lease had been agreed at £34,000, with effect from 30 January 2008, that, according to Mr Hoskins, had been reduced to £30,000 in the first year. Consequently, in respect of No.59 Ebury Street;
  - i. Mr Bademosi provided his analysis of the adjusted rent of £31,424 at £416.43/m<sup>2</sup>.
  - ii. Mr Hoskins analysed the first rent review of £33,200 at £439.97/m<sup>2</sup>.
  - iii. The lease to Belgravia Books from 2011 was analysed at an adjusted price of £420.47/m<sup>2</sup>.
16. The panel held that rental evidence for this specific part of Belgravia appeared not to have been affected by the economic downturn, since rental levels had been demonstrated to be relatively stable. It found as fact that, on the face of it, this evidence appeared to support Mr Hoskins' proposed price of £440/m<sup>2</sup>.
17. The panel heard that the original compiled 2010 rating list entries for the shops on the eastern side of Ebury Street had also been based on £600/m<sup>2</sup> in terms of main space (ITMS). After considering two appeals in respect of Nos. 57 and 59 Ebury Street, the Valuation Officer had accepted that the value on this parade of shops was lower than those opposite and amended the entries in the list for Nos. 57, 59, 61 and 63 Ebury Street, based on the revised price of £500/m<sup>2</sup> ITMS. The panel heard that the appeal against the rating assessment of No. 59 had been lodged by the landlord and not any occupier.
18. The panel gave little weight to the rental evidence from two shops on the opposite, western side, of Ebury Street; the shop at No.54A measured 10.5m<sup>2</sup> ITMS and the rent agreed in June 2005 was too distant from the antecedent valuation date to be of any assistance to the panel. Similarly, the rental information in respect of No.54 that measured 63.68m<sup>2</sup> ITMS had possibly related to Stamp Duty since it had not been provided by a Form of Return, doubt had been cast on whether the August 2007 figure of £42,000 had been subject to VAT.
19. The panel also gave little weight to the Valuation Officer's contention that a revised tone of £500/m<sup>2</sup> had become established for shops on the eastern side of Ebury Street, since that figure had not yet been challenged and accepted. It agreed with Mr Hoskins that it

was not uncommon for shop values to tail off as the distance from the main shopping area increased. Eccleston Street was a prime shopping area and the panel found as fact that the subject property was the furthest retail unit from the road junction, on the eastern side of Ebury Street.

20. In consideration of the hierarchy of evidence as required by *Lotus and Delta*; the panel held that the rent on the subject property was too distant from the antecedent valuation date, although a rent of £19,500 had analysed to £445/m<sup>2</sup>. The panel gave most weight to the rental evidence from the neighbouring property No.59 Ebury Street, which was close to the antecedent valuation date and had been agreed under open market terms.

21. Since the available rental evidence had supported a revised main space price of £440/m<sup>2</sup> the panel determined to allow the appeal and, adopting the 5% end allowance that the parties had agreed, accordingly reduced the rateable value to £18,250 with effect from 1 April 2010.

**Order:** Under the provisions of Regulations 38(4) 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 reduce the rateable value to £18,250 with effect from 1 April 2010. The Valuation Officer must comply with this order within two weeks of the date of its making.

**Date:** 29 April 2015

**Appeal number:** 599019756563/537N10