

Case Name: *Hostsoho Limited v David Jackson (VO)* [2019] UKUT 0166 (LC) (17 June 2019)

Topic: MCC – effect of redevelopment in the locality

Full case: [click here](#)

Summary: This was an appeal to the Upper Tribunal (under the simplified procedure) against the VTE's decision dismissing Hostsoho's proposal to amend the 2010 list on the grounds that significant building work was taking place in the locality. The material day was 27 May 2016, the date of the proposal, when demolition works were in progress at two nearby sites. The appellant's proposal sought a 40% reduction in the RV, in place of an existing 10% allowance. The Upper Tribunal awarded a 25% reduction, having commented that the VO's approach to the valuation exercise had failed to consider the full impact of the works at the material day.

Commentary: The ratepayer was unrepresented in this case and had experienced substantial disruption to its business by reason of various major redevelopments in the locality of its offices in Berwick Street in Soho. The business involved the provision of short-term office accommodation, which was particularly sensitive to reduced income from temporary licensees. The appeal before the VTE was consolidated with 7 others and for each property Hostsoho sought an RV reduction of between 50% and 70% to reflect the considerable disruption and loss of income which they had all experienced from the combined works. The VTE heard the case on 6 April 2018 and accepted the VO's argument that at the material day (27 May 2016) four of the potential MCC events had ceased and certain other works had not commenced. The VO produced evidence that there had been no general reduction of rents for premises in the vicinity, to reflect the works, and made the point that the appellant was unable to produce such evidence. On that basis, the VTE found itself constrained to rely on the VO's evidence and dismissed the appeals, leaving the allowance at 10%. Hostsoho appealed to the Upper Tribunal, in respect of its premises only, limiting its RV reduction request to 40%.

The Upper Tribunal was critical of the VO's approach and commented that the expert had placed too much emphasis on his assessment of the rental evidence (much of which was from rent reviews) as opposed to the assessment evidence (having failed to take into account the full impact of the multiple development work in the vicinity). There had been a failure to "stand back and look".

Taking into account the full facts and circumstances at the material day, the Tribunal put themselves into the shoes of the hypothetical tenant in the physical world on that day and determined that the reduction of 40% sought by the appellant would have been too high. They ordered a reduction of 25% instead, as compared with the 10% agreed to by the VO in respect of historic traffic disruption.

This case is an interesting example of a self-represented ratepayer taking a case to both the VTE and the Upper Tribunal and ultimately succeeding in obtaining a higher allowance, despite failing at the first attempt. The Tribunal, through its use of the simplified procedure, was able to facilitate access to justice notwithstanding the appellant's limited financial resources.