THE VALUATION TRIBUNAL FOR ENGLAND

2010 rating list appeal; Local Government Finance act 1988; shop and premises; rental evidence; settlement evidence; tone of the rating list; appeal dismissed.

RE: Unit 21 Swan Centre, 20 Church Road, Yardley, Birmingham, B25 8UJ ("the subject property")

APPEAL NUMBER: 460525175720/541N10

BETWEEN:	Betfred Limited (Represented by Gerald Eve LLP)	Appellant
	and	
	Dal S Virk (Valuation Officer)	Respondent

PANEL: Mr A N Backway (Senior Member)
Dr P A R Thomson

CLERK: Mrs A Sloan

HEARING: Remote hearing No.1 on 26 May 2022

APPEARANCES: Mr J Davies (of Gerald Eve for the Appellant)
Mr F Hassan (Respondent's representative)

Summary of decision

1. Appeal dismissed. The panel made no change to the existing entry in the 2010 rating list.

Introduction

2. The subject property was entered into the 2010 rating list with effect from 20 February 2012 as a shop and premises with the rateable value (RV) shown as £28,500. The Valuation Officer (VO) received a proposal on 3 March 2015 made on the grounds that the appellant '*Disputes the RV changed in the Rating List by the VO'.* As the parties were unable to resolve the dispute, the matter was transferred to the Tribunal for the appeal to be heard.

3. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

4. The issue before the panel was to determine the correct RV for the subject property.

Evidence and submissions

5. Neither Mr Davies nor Mr Hassan had prepared the original submissions to the Tribunal on this appeal. Both sides had originally exchanged statements of case under the Tribunal's standard directions prior to the first listing of this appeal in 2016. The appeal had been listed a number of times and Mr Davies had made a further submission in 2021, which resulted in Mr Hassan serving an updated submission in response. The panel noted that neither party raised issue with the additional submissions at the hearing, so it admitted all evidence from both parties and proceeded to hear the appeal.

6. Originally the appellant's representative had relied upon the rent passing at the subject property. This was stated to be £25,720 per annum from 30 January 2012. The written submission from 2016 stated that the passing rent analysed to £338/m^2 in terms of Zone A (ITZA), which suggested the existing Zone A rate of £375/m^2 was excessive. The submission sought a revised RV of £25,500, based on the passing rent. It was also stated that the description in the rating list was disputed but no detail was provided on what the proposed description should be instead of 'shop and premises'.

7. In July 2021, Mr Davies sent an email to the VO highlighting that, since the original statements of case had been exchanged, there had been an agreement on a nearby unit that he wished to be considered. Unit 23 Swan Centre had been previously valued at £375/m^2 ITZA, but an agreement was made to reduce that to £225/m^2. Mr Davies pointed out that this unit is in the same valuation scheme as the subject property and is a close neighbour. At the hearing Mr Davies contended that the settlement on Unit 23 set a precedent and the subject property should be valued on the same Zone A price. He provided a revised valuation on this basis for the subject property at £17,000 RV.

8. The initial submission from the VO highlighted that the rent agreed on the subject property was from January 2012, nearly four years after the antecedent valuation date (AVD) of 1 April 2008. It was contended that this rent would reflect the economic downturn and therefore was considered too far removed from the AVD to be useful in establishing the value in 2008. Reference was made to other appeals and settlements in the Swan Centre, which was valued in a scheme where rates ranged from £375/m^2 to £600/m^2. The VO was of the opinion that the subject property, valued at £375/m^2, was already at the lower end of the range for the scheme and the rent agreed in 2012 would be lower than a rent agreed at the AVD in 2008.

9. In August 2021, Mr Hassan provided an updated submission in response to Mr Davies introducing the settlement on Unit 23. He accepted that the range of Zone A values in the Swan Centre scheme now ranged from £225/m^2 to £600/m^2 but stated that Unit 23 differed from the subject property as it was changed from A1 to D1 use, reflecting its change to a tuition centre. At the hearing Mr Hassan argued that Unit 23 is one unit in the whole scheme

and appears to be an error in the list as it is out of kilter with others in the same scheme. He referred the panel to the case of *Ladies Hosiery and Underwear Ltd v West Middlesex Assessment Committee* [1932] 2 KB 679 which found that errors in the list should be corrected and not compounded by reducing other property valuations in line with an error.

Decision and reasons

10. The issue in dispute concerned the level of value to be adopted for the subject property. The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> *"The rateable value of a non-domestic hereditament (none of which consists of domestic property and none of which is exempt from local non-domestic rating) shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year 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 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. In accordance with *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, the panel considered that the starting point of a valuation should be the rent passing on the subject property. It accepted the rent referred to by Mr Davies from January 2012 but found that this was agreed further than was ideal from the AVD of 1 April 2008. It was therefore of limited use in demonstrating what the subject property would have let for at the AVD, so the panel considered the rents and tone of the list on other similar units.

12. Mr Hassan had provided details on the outcomes of challenges on other units in the Swan Centre. Little weight was placed on examples where the appeals were struck out by the VTE as it appeared those appeals were not actively pursued. However, the panel noted that there was an agreement on unit 18 at £450/m^2 and appeals on both units 3 and 10 were withdrawn suggesting the appellants agreed with the rate of £500/m^2 applied to those valuations.

13. While the panel was aware that Mr Hassan should not impugn the rating list by alleging the settlement on unit 23 was an error, the panel noted that there was no evidence of any other units in the Swan Centre valued as low as the £225/m^2 agreed in that case. It did therefore appear to the panel that it was an outlier and not typical of the tone in the locality. The appellant's original submission placed great weight on the passing rent at the subject property, but the analysis did not support a figure as low at £225/m^2. The closest unit in size appeared to be unit 10, at 128m^2 compared to 111m^2 for the subject property, and that unit was valued at £500/m^2. The panel noted that the subject property's existing 2010 list valuation at £28,500 was based on a Zone A price at the lower end of the range for this scheme and therefore did not find it to be excessive.

14. Although the appellant's submission suggested that the description of the subject property was in dispute, little evidence was presented on this subject. The subject property is operated as a bookmaker and is located in a retail area. Mr Hassan contended that it was a retail unit and no major alterations would be required to the shop to configure it for other retail use. On balance, the panel was satisfied that the subject property was correctly identified as a shop and valued on a zoned basis.

15. The burden of proof in this appeal lies with the appellant to persuade the panel that the existing entry in the 2010 rating list was excessive. Although the example of unit 23 had been introduced in 2021 and the VO had responded, no further evidence was provided by Mr Davies in support of his revised valuation at £17,000. The Zone A price applied to the 2010 list valuation of £28,500 sat within the range of values established for the Swan Centre and was at the lower end of that range. On the evidence presented, the panel found that the appellant had not demonstrated that the existing valuation was excessive and the appeal was therefore dismissed.

Date: 16 June 2022
Appeal number: 460525175720/541N10

Appeal Rights

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.