THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; shop and premises; unit price per square metre disputed; proposed end allowances for masking and steps were disputed; appeal dismissed.

Re: 202 Chapel Street, Salford M3 6BY

APPEAL NUMBER: CHG100125866

BETWEEN:	Freshphase Ltd	Appellant
	and	
	Mr R Roberts	Respondent
	(Valuation Officer)	

PANEL: Miss M Dowrick (Senior Member) and Mrs V Hollender

CLERK: Mrs S Morgan

REMOTE HEARING: Wednesday 20 October 2021

PARTIES PRESENT: Mr K Batty – Appellant's representative

Mr G Willetts – Valuation Officer's representative

Summary of decision

1. The appeal was dismissed. The panel made no change to the appeal property's existing assessment of £4,700 rateable value (RV), effective from 1 April 2017.

Introduction

2. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that

business before the Tribunal is conducted in accordance with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5) (arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

3. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.

4. Mr Batty, as the appellant's representative, appeared in a dual role of advocate and expert witness. He was aware that in giving expert evidence his responsibility was to the Valuation Tribunal. Furthermore, he stated that he was not instructed under a conditional fee arrangement or other success related fee.

5. Mr Willetts also appeared in the dual role of advocate and expert witness.

6. The dual role is allowable in VTE proceedings having regard to procedure regulations and rules regarding admissibility of evidence. However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters at issue.

7. This appeal has been brought in respect of 202 Chapel Street, Salford, M3 6BY (the "appeal property"), which was originally entered in the 2017 rating list as "shop and premises" at rateable value £5,300 effective from 1 April 2017. The Valuation Officer agreed to give a 5% allowance for the steps within zone A. He had also revised the zone A floor area by taking out a pillar that had been missed and changing the zone C area to a separate pharmacy and internal storage area. The current assessment of £4,700 RV with effect from 1 April 2017 reflects these changes.

8. The challenge process began when the appellant made a proposal to the respondent on the grounds that the entry shown in the rating list on 1 April 2017 was wrong and that it should be reduced to £4,000 RV. However, after taking into account the valuation officer's amended areas in his valuation, a reduced RV of £3,700 was sought by the appellant's representative.

9. In accordance with regulations, an appeal was made to the VTE on the grounds that the valuation for the appeal property was not reasonable.

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

Issues

11. There were three issues in dispute as follows:

    (a) The price per square metre in the valuation. The valuation officer had applied £175/m^2 (in terms of zone A), but the appellant wanted it reduced to £150/m^2.

(b) The appellant sought a 10% adjustment for the steps. A 5% allowance had been conceded by the valuation officer.

(c) The appellant requested a 5% masking end allowance for an area of the shop which had floor space hidden from the pavement in the zone A area.

Evidence and submissions

12. The appellant's representative had submitted documentation from both parties in respect of this appeal. It included correspondence exchanged between the parties, their valuations, plans, photographs, rating assessment details in respect of comparable properties and rental evidence.

13. The appeal property is a three-storey shop built pre 1900 in a parade of shops which included numbers 198 – 208 Chapel Street, Salford. The property is situated on the busy A6 dual carriage way, close to where Trinity Way crosses Chapel Street in Salford.

Decision and reasons

14. The three issues for the panel to determine concerned the price per m^2 applied in terms of zone A, a 10% allowance for the two steps within zone A and a 5% end allowance for masking.

15. 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 –
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> a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;
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> 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".

16. In respect of an appeal against an entry in the 2017 rating list, the rental levels are to be taken as those passing at the antecedent valuation date (AVD) of 1 April 2015, in accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI 2014 No. 2841).

17. The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeal, the material day is 1 April 2017.

18. The panel examined the rent passing on the appeal property as it considered this would assist in determining whether any allowances were justified. The panel was informed that the rent on the appeal property was £5,000 per annum from 1 June 2010. This analysed to £178.51/m^2. In the original valuation, the zone C area which included the pharmacy and staff room had been incorrectly recorded as the pharmacy and staff room were behind a structural wall and as such should have been recorded separately in the valuation. These two areas have now been assessed separately with the pharmacy assessed at one over eight and the staff room at one over ten. The analysis, with a 5% allowance already conceded for the two steps in zone A, showed £185.87/m^2.

19. The panel decided to begin by determining the unit price per metre in terms of zone A. The appellant's representative contended that the subject property should be valued no more than £150/m^2 for zone A. He referred to two comparable properties at 2A Bloom Street, Salford where £150/m^2 had been applied as the zone A rate and to Unit A, 272 Chapel Street, Salford where £130/m^2 had been applied.

20. The respondent believed that the two properties put forward by the appellant's representative were not suitable for comparison purposes as 2A Bloom Street was not situated on the busy A6 but on a side road off Chapel Street. Unit A, 272 Chapel Street was to be reviewed following this challenge on the appeal property as the adjusted rent on Unit A, although set in November 2016, showed £169.83/m^2.

21. In support of his case that £175/m^2 for zone A was reasonable, the respondent referred to the lower numbers in Chapel Street that were nearer to Manchester City Centre. These properties commanded a higher zone A price of £250/m^2 and £220/m^2 based on direct rental information from that location. In addition, there were new lettings on 208A Chapel Street at £227.24/m^2 from 1 February 2014, Part Ground Floor at 220 Chapel Street at £184.60/m^2 from 16 May 2015 and 144 Chapel Street at £674.66/m^2 from 23 December 2015.

22. The panel found that the appellant's representative's comparable evidence was less reliable with 2A Bloom Street in a less prominent position off Chapel Street and the review pending on Unit A, 272 Chapel Street. There was little more information on the comparable properties to explain their comparability with the appeal property. Overall, having regard to the rental evidence, the panel was not persuaded that any reduction in the unit price could be justified by the appellant representative's rating assessment evidence on comparable properties. The panel found that the rental evidence provided by the respondent in the location of the subject property, which supported the unadjusted rate of £175/m^2 for zone A, carried more weight. Therefore, having regard to the totality of the rental evidence the panel was satisfied that £175/m^2 was not excessive.

23. Turning to the issue regarding the steps within the zone A area of the shop unit. The appellant's representative contended that this was a serious problem, as identified in the photograph. The two-step drop was around 16 inches, which in his view, was a major disability and that a 10% allowance was justified rather than the 5% already awarded.

24. The respondent contended that no comparable rental or property evidence had been provided to support a 10% allowance for the two steps. There had been no other challenges on this issue from neighbouring properties. He stated that comparable properties with steps in zone A or B can be found within the Salford Billing Authority area and that the 5% conceded was in line with comparable properties shown within the assessment summary schedule.

25. The panel considered the photograph showing the steps together with the floor plans on the comparable properties, but it was not convinced that this issue warranted an allowance higher than the 5% already conceded. The 5% was a consistent approach for this particular disability and furthermore there was no rental or comparable evidence to suggest a higher figure was justified. The panel was therefore satisfied that a 5% allowance for the steps was reasonable.

26. Finally, the panel had regard to the masking. The appellant's representative believed that 5% for masking was justified due to the front elevation being partially masked.

27. The respondent contended that an allowance for masking was not warranted. He referred to the assessment summary and to the shops included in that schedule as all having some form of pillars in their frontage. This would be reflected in the rental analysis and ultimately in the zone A figure of £175/m^2. Furthermore, the appellant's representative had not provided any comparable evidence of properties with pillars where allowances had been given. This included the neighbouring properties where similarly positioned pillars were noted.

28. Having considered the masking issue, the panel was not persuaded that there was any masking from the pillars at the front of the premises. Furthermore, the panel noted the comments from the respondent regarding pillars in the neighbouring units and that the rental analysis would reflect this particular disability. The panel was therefore satisfied that no allowance for masking was justified.

29. In appeals of this nature the burden of proof rests on the appellant's representative to prove his case for a reduction. However, in this case, the panel concluded that the appellant's representative had failed to produce sufficient evidence to justify his claim for a reduction in the zone A rate, a further 5% allowance than that already given for the two steps and an allowance for masking. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated and the appeal was dismissed.

Date: Wednesday 17 November 2021

Appeal number: CHG100125866