THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; amusement arcade and premises; unit price per square metre disputed; lighting issues, position of appeal property on the promenade, removal of allowances given on the 2010 assessment, non-use of an escalator; lack of car parking; appeal dismissed.

Re: 147-157 Promenade, Blackpool FY1 5BE

APPEAL NUMBER: CHG100148354

BETWEEN:	Silcock Leisure Group Ltd	Appellant
	and	
	Mr R Roberts	Respondent
	(Valuation Officer)	

SITTING ALONE: Miss M Dowrick (Senior Member)

CLERK: Mrs S Morgan

REMOTE HEARING: Wednesday 20 October 2021

PARTIES PRESENT: Mr K Batty – Appellant's representative

Mr C Sherratt – 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 £74,500 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 Sherratt 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 147-157 Promenade, Blackpool (the "appeal property") which was entered in the 2017 rating list as "amusement arcade and premises" at £74,500 RV effective from 1 April 2017.

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 £50,500 RV.

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. The Tribunal Business Arrangements provide that a hearing will normally take place before a panel of two Members of the Tribunal, including at least one Senior Member. However, the Arrangements also provide that a Senior Member may sit alone to avoid a postponement of the hearing where a second Member of the Tribunal is unable to sit.

11. In respect of this hearing, another Member of the Tribunal was unable to sit. I am therefore satisfied that, to avoid a postponement of the hearing, I am authorised by the Tribunal Business Arrangements to hear and determine this appeal sitting alone.

12. 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 me before coming to my decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issues

13. There were a number of issues in dispute as follows:

a. The inferior position of the appeal property compared with other properties north of Chapel Street.

b. No natural light whatsoever on the first floor.

c. Poor lighting in the centre of the ground floor.

d. No car parking facilities.

e. Non-use of the escalator on left hand side of building.

f. Stanchions throughout the building which needed to be reflected in the valuation.

g. Allowance for triple unit needed to be reflected in the valuation.

h. The price per square metre in the valuation should be reduced from £115/m^2 to £90/m^2 to reflect the property's position. The appellant's representative cited two comparable properties, one in Lytham St Annes at £20/m^2 and one in Morecambe at £40/m^2 main space price.

Evidence and submissions

14. 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, a 2010 rating list decision for 125-141 Promenade, Blackpool (appeal no. 23732466418/538N10) and rental evidence.

15. The appeal property is a circa 1980's end terrace property. It had an actual area of 867.62m^2. It was originally nine individual units before becoming a single property. It is of steel frame construction with brick work to the side and rear elevations. The front elevation is mainly metal frame with metal cladding to the upper elevations.

16. The property is situated on the promenade in Blackpool and can also be accessed from Foxhall Road. It is close to the junction with Chapel Street and the central pier.

Decision and reasons

17. There were a number of issues for me to determine in this case which included the main space price, its position on the Promenade, the removal of allowances given on the 2010 rating list for triple unit and stanchions within the building, the poor lighting on the ground

floor and no natural light on the first floor, the non-use of the escalator on the left-hand side of the building and the lack of car parking.

18. 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”.

19. 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).

20. 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.

21. I decided to begin by determining the unit price per metre for the main space. The appellant’s representative contended that the subject property should be valued at no more than £90/m^2. He referred to two comparable properties, one in Lytham St Annes at 20/m^2 and the other in Morecambe at £40/m^2, to illustrate values in an inferior location.

22. The respondent argued that these two properties were some distance away from the promenade in Blackpool. He contended that there were other comparable properties closer to the appeal property which would be more relevant. In referring to his schedule of amusement arcades situated on the Promenade, the respondent confirmed that the subject property was valued at £115/m^2 which, in his view, reflected its size and location.

23. The respondent referred to three lettings on the Promenade.

    25-43 Promenade was a lease renewal from March 2015 at £200,000 per annum. This property had an actual area of 2031.40m^2. The adopted value for this property was £140/m^2.

    181-191 Promenade was a new letting from September 2013 at £40,000 per annum. This property had an actual area of 241.08m^2. The adopted value was £156/m^2.

67-73 Promenade was a new letting from January 2013 at £120,000 per annum under a three-year stepped rent. This property had an actual area of 1224.06m^2. The adopted value on this property was £150/m^2.

24. Although accepting that the size of these comparable properties fell either side of the appeal property, the respondent believed that the rents still supported the £115/m^2 main space price applied to the appeal property when taking into account its size and location.

25. I considered the comparable evidence provided by the parties. The two properties put forward by the appellant's representative were located too far away from the subject property to be useful, even from an inferior location point of view. I noted that the £115/m^2 which had been applied to the appeal property was lower than the amusement arcades that were closer to Blackpool Tower. Therefore, bearing in mind that the subject property was now valued on an overall basis, I found that £115/m^2 did not appear unreasonable as a reflection of its size and location.

26. The appellant's representative also referred to lighting issues on the ground and first floors. The respondent was of the view that this issue would be reflected in the overall valuation approach.

27. I was of the view that the lack of natural light or poor lighting was not uncommon in a building of this size and occupation. I was therefore satisfied that any lighting issues would already be reflected in the valuation.

28. In relation to the removal of the various allowances in the 2017 assessment which had been included in the 2010 rating list, the respondent contended that these should not have been removed as they were previously agreed allowances for triple unit and stanchions throughout the building. The respondent explained that when the 2010 list was compiled the appeal property assessment was on a zoned basis. However, for the 2017 list the valuation was changed to an overall approach which would reflect these two features. He added that it would be double counting if they were included in the current assessment.

29. I found that in changing the valuation approach from zoning on the 2010 list to the overall approach on the 2017 list would mean that any disadvantages would be incorporated in the adopted rate. I noted that other similar properties had stanchions throughout their premises and, as such, it appeared not uncommon for properties of this nature to have stanchions. Furthermore, there was no evidence to suggest this feature was a value significant disability. The same could be said about the lack of car parking. I was therefore satisfied that the two allowances for triple unit and stanchions should not be included in the assessment as additional allowances nor should there be any allowance for the lack of car parking.

30. The appellant's representative had also referred to the non-use of the escalator on the left-hand side of the building. However, the respondent believed that this had not been reflected in the appellant's representative's proposed valuation and therefore he offered no further information on this matter as it was no longer an issue.

31. Towards the end of the hearing, the respondent raised the fact that the valuation had actually been incorrectly calculated, as part of the property had been assessed using the old zoning method, and that the correct valuation, using the overall method, would result in £83,000 RV. It was disappointing that this was mentioned so late in the proceedings. The

Tribunal is only able to consider a request to increase the valuation when presented with evidence in support of this in advance.

32. 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 on all the issues raised. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated and the appeal was dismissed.

Date: Friday 19 November 2021

Appeal number: CHG100148354