THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; shop and premises; rental evidence; comparable assessments; appeal dismissed.

RE: 7 Alexandra Street, Southend-On-Sea, Essex SS1 1BX

APPEAL NUMBER: CHG100197601

BETWEEN:	Taylors Hairdressing Southend Limited	Appellant
	and	
	Ms D Bunyan (Valuation Officer)	Respondent

PANEL: Mr F J Stuart (Senior Member)
Mr P Phelps

CLERK: Mrs H Beresford

REMOTE HEARING ON: 12 April 2022

APPEARANCES: Mr P Emerick of Altus Group (Appellant's representative)
Mr L Stevens (for the Valuation Officer)

Summary of decision

1. The appeal was dismissed, the assessment was confirmed at rateable value (RV) £26,750 with effect from 1 April 2017.

Introduction

2. This appeal has been brought in respect of the following: 7 Alexandra Street, Southend-On-Sea SS1 1BX, (the 'appeal property'), which was entered in the 2017 rating list as 'shop and premises' at RV £26,750, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Taylors Hairdressing Southend Limited made an appeal to the Valuation Tribunal for England (VTE). The appeal was made because the Valuation Officer decided not to alter the 2017 rating list following the appellant's check and challenge. The appellant had originally sought a reduction to RV £17,500 with effect from 1 April 2017.

4. The appeal to the VTE was made on 19 October 2021 on the grounds that the valuation for the appeal property was not reasonable, as the Valuation Officer had not made any alteration to the rating list in his challenge decision notice.

5. The appeal property is located on Alexandra Street, Southend-On-Sea, it comprises a ground floor shop with basement storage. It is situated within approximately 100m of The Royals Shopping Centre and is occupied by Taylors Hairdressing.

6. The appellant's representative, when appearing as expert witness, stated that he was on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client's case.

7. The panel has accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is allowable due to the Tribunal's rules on admissibility of evidence (regulation 17(2)(a) where the tribunal can admit evidence whether or not it would be admissible in a civil trial).

8. It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

9. 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 when 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.

Issue

10. The base level of value adopted for the appeal property was not agreed. The Valuation Officer has adopted £300/m^2 in respect of the appeal property, but the appellant sought a reduction to £195/m^2. The parties had agreed that the property measured 89.9m^2 in terms of zone A (ITZA)

Evidence and submissions

11. The bundle comprised all of the documents exchanged between the parties as part of the challenge process. This included: the challenge document and supporting evidence; the Valuation Officer's initial response; comparable properties; rental evidence, location plans; numerous photographs of the appeal property and the comparable properties, assessment and rental evidence, tenure information, the definition of rateable value and case law.

12. In the original challenge it was contended that the rating assessment of £300/m^2 on the subject property was not in line with the passing rent of £19,500 per annum which was agreed in April 2016. It was argued that taking into account all the facts and rental evidence an RV of £17,500 should be adopted based on a revised unadjusted price of £195/m^2 which was more appropriate. At the hearing Mr Emerick argued that the appeal property was in a poor location near the Royals shopping centre at the Alexandra Street end of the High Street. He stated that the Queens Road end of the High Street is the prime centre in the town whilst The Royals and the Alexandra Street end of the High Street is sub-prime.

13. Mr Emerick also believed that the rent for the subject property, which had been agreed in April 2016, would arguably have been higher if it had been agreed a year earlier at the AVD. He believed that this was the best evidence upon which to base the valuation and he had re-analysed the rent on the subject property and now sought an RV of £20,000 with effect from 1 April 2017 based on a rate of £225/m^2.

14. Mr Stevens argued that the 2016 rent on the subject property is too far removed from the AVD to carry enough weight to allow the conclusion to be drawn that the list entry is unreasonable. He explained that the RV had been drawn from evidence of rents of many properties in the same valuation scheme not just Queens Road and Alexandra Street. However, there was little rental evidence at the AVD hence the use of comparable properties in Queens Road and Alexandra Street. Mr Stevens did not agree with Mr Emerick's assertion that the location of the properties on Queens Road was superior, and argued that it is near a car park, bus station, the Royals Shopping Centre and the tourist area.

15. Mr Stevens argued that the Valuation Officer had not been provided with any details of comparable properties from the appellant's representative at the challenge stage. He pointed out that Mr Emerick had analysed the Valuation Officer's comparable properties. He also contended that in cases of this nature the burden of proof rests upon the appellant to provide evidence to confirm that the appeal property was over assessed.

16. Mr Stevens contended that the comparable properties cited by the Valuation Officer supported a value of £300/m^2 for the subject property. Mr Stevens asked the panel to confirm an RV for the appeal property of £26,750.

Decision and reasons

17. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the antecedent valuation date (AVD),1 April 2015. The common date was used to ensure that every property was treated in a consistent way.

18. The term 'rateable value' is defined in 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. The Lands Tribunal judgment in *Lotus and Delta* v *Culverwell (VO) and Leicester City Council* [1976] RA 141 which had been referred to by both parties provided authoritative 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 weighted.

20. The panel noted that Mr Emerick had stated that the appeal property was situated on Alexandra Street which, in his opinion was a sub-prime location when compared to Queens Road which he submitted was a prime location. Mr Emerick had argued that most of the Valuation Officer's comparable properties were situated in a better location than the appeal property and consequently greater weight should be attached to the rent on the subject property. The panel found that whilst the passing rent forms a good starting point for determining the RV of a property this rent was agreed one year after the AVD and other evidence should also be taken into consideration.

21. Furthermore, the panel also noted that Mr Emerick had not provided any alternative rental evidence to support his argument that the property was over-assessed or to support a base rate of £220/m^2.

22. The panel turned to the evidence of comparable properties cited by the Valuation Officer: 24 Queens Road, Southend, had a rent of £14,400 effective 24 September 2014, this rent analysed to £384/m^2 ITZA; 1 & 2 Queens Arcade, Queens Road, Southend, had a rent of £10,200, effective 24 October 2015, which analysed to £374/m^2 ITZA; 21 Alexandra Road, Southend, had a rent of £12,000, effective 9 February 2015, which analysed to £280 ITZA and 11 Queens Road, Southend, had a rent of £17,000, effective 29 June 2013, which analysed to £322 ITZA.

23. The panel found this evidence to be persuasive. It found the most useful comparator to be 21 Alexandra Road, Southend, which had a rent of £12,000, effective 9 February 2015, which analysed to £280/m^2 ITZA. This was a new letting which fitted the rating hypothesis as a new tenant coming fresh to the scheme and was within two months of the AVD. Along with the basket of evidence, the panel found supported a base rate of £300/m^2 for the subject property.

24. The panel found that in cases of this nature the burden of proof is on the appellant to satisfy the Tribunal that the appeal should be allowed. In this case the panel was not persuaded by the evidence and arguments put forward by the appellant's representative that a reduction in the assessment to £225/m^2 was warranted. Therefore, the appeal was dismissed.

Date: 28 April 2022

Appeal number: CHG100197601