THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; challenge against compiled list entry; hairdressing salon and premises; accuracy of rateable value; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal dismissed.

RE: Unit 1,Beacon Retail Park, Claughton-On-Brock, Preston, Lancashire PR3 0EN

APPEAL NUMBER: CHG100468923

BETWEEN:	Voie Garstang Ltd	Appellant
	and	
	Ms A Hitchings (Valuation Officer)	Respondent

PANEL: Mr WJ Read (Presiding Senior Member)
Mrs NC Yang (Senior Member)

CLERK: Miss F Willson

REMOTE HEARING ON: 31 October 2022

APPEARANCES: Mr K Batty (the representative for the appellant)
Ms R Fahy (on behalf of the Valuation Officer).

Summary of decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) of Unit 1, Beacon Retail Park, Claughton-On-Brock, Preston, Lancashire PR3 0EN (subject property) at £13,000 with effect from 1 October 2018.

Introduction

2. This was a 2017 rating list appeal on the subject property which had been entered in the 2017 Rating List as 'hairdressing salon and premises" with an RV of £13,000 with effect from 1 October 2018.

3. The appeal arises from a challenge proposal made by Ken Batty Surveyors on behalf of Voie Garstang Ltd in respect of the entry in the rating list of £13,000 RV with effect from 1 October 2018. The appellant sought a revised assessment of £9,500. After considering the merits of the challenge, the Valuation Officer (VO) determined that it was not well founded and a decision notice to this effect was issued on 13 December 2021. The appellant made an appeal to this tribunal against the decision notice, received on 8 April 2022, on the grounds that the existing RV was not reasonable.

4. Mr Batty appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Batty stated that he was not instructed under a conditional fee arrangement. He declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported his client's case.

5. The subject premises comprises of a masonry construction completed in 2018 and was positioned at the end of a terrace of single storey retail units. It was situated in a new retail development with service yards, landscaping, communal parking and was near to the M6 motorway. The site is also part of a residential development which will include in excess of 240 new homes and 42 retirement homes.

6. Mr Batty attended the hearing by an audio only connection but confirmed that he was content that he could fully participate in the hearing by that method. The panel was satisfied that neither party had been disadvantaged by the audio only connection and that both panel members were able to hear Mr Batty's presentation in full.

7. 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.

Issue

8. The issue between the parties is the RV of the appeal property specifically the main space price for the hereditament and the valuation of the dedicated shower room.

Evidence and Submissions

9. Mr Batty submitted a bundle of evidence which included details of the subject property, his revised RV calculation, copies of correspondence between the parties and the issues in dispute. He submitted that the appeal should be allowed and the RV on the subject property should be reduced to £9,500.

10. Ms Fahy referred the panel to the challenge application and decision. She submitted that the RV of £13,000 was reasonable and asked the panel to dismiss the appeal.

Decision and Reasons

11. The appeal hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (antecedent valuation date or AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal. When assessing the RV of any property, rating law also requires that the property must be assumed to be ‘vacant and to let’ and in the state set out in Schedule 6 of paragraph 2(7) of the Act, in relation to both the physical nature of the property and its mode or category of use.

12. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd v Culverwell (VO)and Leicester City Council* 1976, as referred to by the respondent. This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

(1) ‘Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

(2) The more closely the circumstances under which the rent agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

(3) Where rents of similar properties are available, they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

(4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the valuation officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

(5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

(6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but, in such circumstances, it would be clearly more difficult to reject the evidence of the actual rent.’

13. Mr Batty submitted that the current main space price adopted of £150/m^2 should be lowered to £110/m^2. He referred the panel to the following comparable:

a. Unit 1 Stoops Weind, High Street, Garstang which had a main space price of £110/m^2 and was 95.38m^2 In Terms of Main space (ITMS) and is therefore similar in size to the subject property which was 88.04m^2 ITMS.

b. United Co-op (Chemist) Windsor Road, Garstang which has a main space price of £80/m^2 and is 104.03m^2 ITMS. The main space price on this property is well below the one on the subject property which is £150/m^2 and so supports a reduction on the subject property.

c. Unit 9 Beacon Retail Park has a main space price of £110/m^2 and is 388m^2 ITMS. Mr Batty submitted that although the size of this comparable property is larger, he is not referring to a size matrix and so it again supports £110/m^2 for the subject property.

14. The panel noted that none of the comparable properties were hairdressing salons and they were some distance from the subject property. In two of the cases the properties were larger than the subject property. The panel therefore did not consider them truly comparable to the subject property.

15. Mr Batty explained that there was a shower room at the back of the assessment which had been included in the measurement of the sales area. The shower room was a permanent fixture and was not simply partitioned off but had a structural wall which would take some demolishing should someone want to change the layout. This meant that, in his opinion, the shower room should have a main space price of 70% of that of the sales area as it was clearly not part of the sales floor. The size of the shower room is 2.89m^2 and should, he submitted, have a main space price of £77/m^2. Under questioning, Mr Batty conceded that he did not have any comparable properties to demonstrate the reduction of the shower room by 70%.

16. The panel was aware that if the shower room was partitioned off it would be included in the main space and given the same main space price. If, however, the area was structurally separated from the main space it should be given a lower value. The panel noted that Mr Batty had not included any evidence to support the level of separation in the form of photographs of the subject property and the shower room. Neither had he provided evidence of the level of reduction applicable if the area was to be considered to be separate in the form of comparable properties. The panel put little weight on this evidence.

17. Ms Fahy drew the panel's attention to the comparable properties supporting the current tone with all the properties being in the same locality:

Address	Description	Total area ITMS/m	Adopted value £/m^2	Survey unit value	RV
*Unit 1 Beacon Retail Park	Hairdressing salon and premises	88.04	£150	£13,206	£13,000
Unit 2 Beacon Retail Park	Auctioneers and valuers	88.04	£150	£13,206	£13,000
Unit 5 Beacon Retail Park	Shop and premises	88.00	£150	£13,200	£13,000
Unit 7 Beacon Retail Park	Shop and premises	88.44	£150	£15,239	£15,000

* The subject property

18. These comparable properties were, in Ms Fahy's opinion, good comparators to the subject property as they were almost identical in size, were on the same retail park and supported an adopted rate of £150/m^2 for the subject property. The units were let as shells and so were all valued accordingly. Ms Fahy asked Mr Batty when questioning him why he had not chosen other properties on the same retail park as the subject property. He confirmed that he had not chosen any of them as he did not believe that they, like the subject property, had been given the correct main space rate.

19. The panel was aware that in the case of *Lotus v Delta* the basket of evidence used in the valuing of a property included that of comparable evidence of similar units in the vicinity. The panel put weight on the comparable properties provided by the VO which provided strong evidence to support the adopted rate of £150/m^2 on the subject property.

20. Ms Fahy submitted that, in relation to the appellant's comparable properties, they were some distance from the subject property and not like her comparable properties on the same retail park. They were, other than in the case of Unit 1 Stoops Weind, larger and, in the case of Unit 9, four times larger than the subject property and so an element of quantum needed to be taken into account. Unit 1 Stoops Weind was in a back street location to the rear of 1-2 Stoops Hall and so was in a very different location which would be reflected in the adopted rate. This meant that, in her opinion, the panel should put little weight on any of the appellant's comparable properties.

21. The panel found that the comparable properties put forward by the appellant were different to the subject property as outlined by Ms Fahy and so gave them little weight.

22. Ms Fahy submitted that having a dedicated shower room was a tenant's improvement as it was of value to this occupier but may not be to other potential occupiers who may wish to configure the subject property differently. The shower room was therefore only of value to this particular tenant. The fact that the shower room was created out of adding a block wall meant that it could easily be removed and the space returned to be part of the main space and therefore should be included in the main sales area at £150/m^2.

23. From the basket of tonal evidence provided by the respondent the panel was satisfied that the current assessment of the subject property at £150/m^2 was reasonable and the appellant had not provided any evidence to persuade the panel that it was excessive. Further, they found that the shower room should not be valued separately as it was a temporary structure only of benefit to a certain type of business and therefore should not be reflected in the RV. The appeal was therefore dismissed.

Date: 28 November 2022

Appeal number: CHG100468923

Right of Appeal

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.