THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeal; shop and premises; Zone A price per m^2 in dispute; rental evidence; comparable assessments; appeal dismissed.

RE: 51 New Street, Birmingham B2 4EG

APPEAL NUMBER:	CHG100564675	
BETWEEN:	Flight Centre UK Ltd	Appellant
	and	
	Ms A Morley, Valuation Officer	Respondent
PANEL:	Ms S Yousef (Senior Member) and Ms J Morton	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Friday 16 June 2023	
APPEARANCES:	Mr A Simons from Altus Group, representing the appellant Ms Mills representing the Valuation Officer	

Summary of decision

1 Appeal dismissed. The panel determined that the present Zone A price of £1,500 per m^2 was reasonable and therefore the rateable value (RV) of £77,500 with effect from 1 April 2017 was confirmed.

Introduction

2 This is a 2017 rating list appeal. 51 New Street, Birmingham B2 4EG, (the ‘appeal property’) had been entered into the 2017 rating list as ‘shop and premises’ at a RV of £78,000 with effect from 1 April 2017. The RV had been reduced to £77,500 RV following the check stage.

3 The challenge proposal was submitted by Altus Group on behalf of Flight Centre UK Ltd and was received by the Valuation Officer on 20 January 2021. It had been made on the grounds that the RV shown in the rating list on

1 April 2017 was inaccurate. A revised RV of £64,500 was proposed with effect from 1 April 2017.

4 The Valuation Officer issued a challenge case decision notice on 22 March 2022 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.

5 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was received by the Tribunal on 13 July 2022.

6 The subject property is a retail premises of traditional brick construction, located on New Street, a major high street within Birmingham city centre. It is assessed in valuation scheme 389390 applicable to shops in New Street between numbers 49 to 113.

7 The present valuation of £77,500 RV is based upon a total area of 165.14m^2, at a Zone A price of £1,500 per m^2.

8 This tribunal decision document is not, and does not purport to be a verbatim record of proceedings.

Issues

9 The issue in dispute is the Zone A price per m^2 to be adopted in the valuation.

Evidence and submissions

10 The bundle comprised all the documents exchanged between the parties as part of the challenge process: initial response to the challenge, Valuation Officer's challenge case decision notice, and appellant's challenge submission.

11 In support of his proposed Zone A price of £1,250 per m^2, Mr Seabrook referred to comparable rental evidence and requested a revised valuation at £64,500 RV with effect from 1 April 2017.

12 On behalf of the Valuation Officer, Ms Mills defended the present Zone A price of £1,500 per m^2 with reference to the basket of rental evidence.

Decision and reasons

13 In arriving at a decision, the panel is governed by rating legislation laid down by Parliament where Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, provides that:

> 2(1) 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.

14 In respect of an appeal against an entry into 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).

15 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.

16 The panel was guided by the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which had set out six propositions to be followed when considering the weighting of evidence. The subject rent was the starting point, but consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to it.

17 The appeal property was subject to a ten-year lease effective from 25 March 2013 at a rent of £75,000 per annum (pa). The parties agreed that the rent analysed at £1,440.37 per m^2 but disagreed on the weight to be attached to it. Mr Simons contended that it was too remote from the AVD, while the Valuation Officer submitted that it was a strong starting point, and that the analysis of £1,440.37 per m^2 was close to the present tone of £1,500 per m^2.

18 Whilst the panel acknowledged that the subject rent had been agreed two years before the AVD, the analysis at £1,440.37 per m^2 demonstrated to the panel that the present tone of £1,500 per m^2 was not excessive.

19 The remaining propositions in *Lotus and Delta* required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

20 Of the rental comparables scheduled in the appellant's submission, two were disregarded by the panel (9-10 Bennetts Hill and 8-9 Lower Temple Street) as they were not located on New Street and were subject to different valuation schemes. This appeared to be a point conceded by the appellant as no further reference was made at the hearing to comparable properties located away from New Street.

21 Mr Simons sought to demonstrate with reference to rental analysis that the Zone A price of £1,500 per m^2 was excessive. He drew particular attention to the following as key comparables:

50A New Street

Located next door to the appeal property, this was subject to a new lease effective from 1 October 2014 at a rent of £52,000 pa. Mr Simons' analysis of £1,212.90 per m^2 was 19.14% less than the adopted price of £1,500 per m^2.

52 New Street

Located next to the appeal property, this was a lease renewal effective from 25 March 2013 at a rent of £82,500 pa. Mr Simons' analysis of £1,289.76 per m^2 was 14.02% less than the adopted price of £1,500 per m^2.

85 New Street (scheduled by the Valuation Officer)

Subject to a new lease effective from 8 May 2015 at a rent of £60,000 pa, the rent analysed at £1,280.12 per m^2.

87 New Street

Subject to a new lease effective from 29 April 2014 at a rent of £77,500 pa, Mr Simons' analysis of £1,019.42 per m^2 was 32.04% less than the adopted price of £1,500 per m^2.

22 The Valuation Officer's rental summary comprised the appellant's comparable properties and other comparables from New Street in support of the adopted tone. Ms Mills drew attention to a difference in the Valuation Officer's rental analysis from that provided by Mr Simons in respect of:

50A New Street

The Valuation Officer's analysis was lower at £1,051.92 per m^2. No adjustment had been made to the rent as it was on a full FRI basis. It was acknowledged to be lower than the £1,500 per m^2 tone, however, was considered to be an outlier.

67 New Street

Subject to a new lease effective from 19 September 2016 at a rent of £82,500 pa. Mr Simons analysed the rent at £1,341.01 per m^2, whereas the Valuation Officer's analysis was higher at £1,899.02 per m^2 and reflected fit out costs detailed in the form of return.

87 New Street

The Valuation Officer's analysis was higher at £1,516.58 per m^2 as a result of adjustments made for a stepped rent, not FRI, six months rent free and a £500,000 fit out.

23 The Valuation Officer emphasised the importance of considering the basket of evidence, as there were a number of rents which analysed above the present tone of £1,500 per m^2:

- 61-65 New Street - £1,878.24 per m^2, effective from 17 December 2013.
- 67 New Street - £1,899.02 per m^2, effective from 1 September 2016.
- 80 New Street - £1,888.89 per m^2, effective from 24 March 2014.
- 84 New Street - £2,060.00 per m^2, effective from 5 May 2013.
- 87 New Street - £1,516.58 per m^2, effective from 29 April 2014.

24 It was clear to the panel that while some of the rents analysed below the tone, there were more examples of rents which analysed above. The panel also took into consideration a point made by the Valuation Officer that there had been no other challenges made to the tone of £1,500 per m^2, and the longer the list was in existence, the more weight should be attached to it. It was of further significance that all of the properties cited from within the same valuation scheme were assessed at £1,500 per m^2.

25 The panel therefore concluded that the weight of the evidence demonstrated that the present tone of £1,500 per m^2 was reasonable. Consequently, the assessment of the appeal property at £77,500 RV was confirmed with effect from 1 April 2017, and the appeal dismissed.

Date: 29 June 2023

Appeal number: CHG100564675

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.