THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Local Government Finance Act 1988; Shop and premises; accuracy of rateable value; rental and comparable evidence considered; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Base Rate; Appeal dismissed.

RE: 350-352 Ringwood Road, Poole BH14 0RY

APPEAL NUMBER: CHG100618067

BETWEEN:	Mr Mike Stone	Appellant
	and	
	Mr D Virk (Valuation Officer)	Respondent

PANEL:	Miss E Antrobus (Presiding Senior Member) Miss K Riddy, Senior Member
CLERK:	Ms R Muller
REMOTE HEARING 3:	1 July 2022
PARTIES PRESENT:	Mr S Price from Ameliorate Consultancy Limited representing the Appellant Ms T Parsons representing the Respondent

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Summary of decision

1. Appeal dismissed. The Rateable Value (RV) of the subject hereditament remained at £15,250 with effect from 1 February 2019.

Introduction

2. This was a 2017 rating list appeal. The assessment of the subject hereditament was £15,250 RV, with effect from 1 February 2019 and described as shop and premises. For this appeal, matters that affect the physical state or enjoyment of the hereditament or the locality were to be taken as at the material day, which was 1 February 2019.

3. A check had been completed on 12 January 2021 and the RV remained unchanged. A challenge was submitted on 16 February 2021 and was completed on 13 September 2021. An appeal was received by the Tribunal on 3 January 2022, made on the grounds that the valuation for the hereditament was not reasonable.

4. Mr Price appeared on behalf of the appellant as expert witness and advocate. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Price stated that he was not instructed under any 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 the client's case.

5. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

6. The subject hereditament originally had been part of a larger hereditament (348-352 Ringwood Road) which had been split into three separate retail units. The subject hereditament was one of those units on Ringwood Road and consisted of a semi-detached single storey retail unit trading as a salon, situated to the northeast of Poole town centre. It is constructed of block and rendered elevations with part aluminium framed glazed elevations beneath a pitched tiled roof. The area of the subject hereditament was agreed by the parties to be 71m². There is no parking available.

7. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as an indication that that statement or item of evidence has been overlooked by the panel.

Issue

8. The issue between the parties concerned the RV of the subject hereditament and specifically, the Zone A price that should apply.

Evidence and submissions

9. Mr Price provided a bundle of evidence on behalf of the appellant, which included details of the subject hereditament, the issues in dispute and details of comparable properties.

10. Within the challenge submission, Mr Price had sought a reduction to £8,500 RV with effect from 1 February 2019, which had been based on a revised Zone A rate of £140/m².

11. Ms Parsons, the respondent's representative submitted a bundle of evidence, which included details of comparable hereditaments within the local area and a summary of her conclusion in support of her decision.

12. As such, Ms Parsons sought to defend the existing assessment of £15,250 RV, which was based on the existing Zone A rate of £250/m² and requested that the appeal be dismissed.

13. For consideration, extracts from case law were submitted, including *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141.

Decision and reasons

14. The subject 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 February 2019 (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.

15. In line with the decision in *Lotus and Delta v Culverwell,* the panel was aware that usually the rent on the subject hereditament should be taken as a starting point, but as the rent had not been set until 1 June 2019, it was too far removed from the AVD of 1 April 2015 to be of any assistance. Therefore, the rent of comparable hereditaments in the locality was considered.

16. Mr Price referred the panel to the rental details of 348-352 Ringwood Road, let as a single unit before it had been split into three separate units. It had been larger in size at 106.55m² ITZA with an analysed Zone A rate of £138/m². The panel noted that it had a six year lease with a six months' half rent period and a three year rent review. The lease commenced on 1 November 2014 at £14,000 per annum, which was circa four months prior to the AVD of 1 April 2015. It also had a 5% end allowance for merged units.

17. As the rent had been set circa four months prior to the AVD of 1 April 2015 this looked to be a good comparable. However, as it was a much larger property, it could not be considered a true comparable. No indication as to whether quantum applied to this larger property had been provided by the parties and therefore whilst of some assistance, the rent was taken with a degree of caution and little weight was attached to it.

18. Mr Price also referred the panel to the following four comparable hereditaments (rental details were provided by the respondent):

   (i). 14 Sea View Road, Poole BH12 3JX with a Zone A rate of £160/m². This hereditament had a rent of £6,000 from 1 April 2012, which analysed at £210.10/m².
   (ii). 68 Sea View Road, Poole BH12 3JY was freehold, so no rent payable. This property had a Zone A rate of £160/m².
   (iii). 618 Ashley Road, Poole BH14 0AW was also freehold, so no rent payable. This property had a Zone A rate of £150/m².
   (iv). 636 Ashley Road, Poole BH14 0AY with a Zone A rate of £150/m². This hereditament had a rent of £6,600 from 11 August 2011, which analysed at £299/m².

19. The panel noted that the hereditaments on Sea View Road were within the same valuation scheme as the subject hereditament (321426). The hereditaments on Ashley Road, although within a different valuation scheme (316186), were still classed as shop and premises within the rating list.

20. Mr Price informed the panel that the shops located on Sea View Road were circa 200 metres from the subject hereditament and the shops located on Ashley Road were circa one kilometre southeast of the subject hereditament.

21. However, the panel noted that both leases for 14 Sea View Road and 636 Ashley Road had been set circa three to three and a half years prior to the AVD of 1 April 2015, which again were too far removed from the AVD to be of any assistance. The panel also noted that these properties were located in a slightly different area to the subject hereditament, which may reflect the lower rate assigned to each of their Zone A assessments. Therefore, the panel gave less weight to these comparable properties.

22. Ms Parsons had provided details of several comparable hereditaments in Ringwood Road, which were within the same valuation scheme as the subject hereditament, and were also shops and premises to support the existing Zone A rate for the subject hereditament.

    (i). 92 and 300 Ringwood Road had both been let on 1 October 2013 and 7 February 2013 which had achieved rental figures of £4,225 and £9,298. The rents analysed to £312/m² and £296.57/m² respectively. However, the dates of both leases were too far removed from the AVD to be of any assistance.
    (ii). 612 Ringwood Road, had been let on 1 February 2017 and had achieved a rental figure of £30,500. Again, the date of the lease was too far removed from the AVD to be of any assistance.
    (iii). 378 Ringwood Road had been let on 25 October 2015 and had achieved a rental figure of £8,000, which had an analysed rent of £280.44/m^2.

23. The panel noted that the most reliable rental evidence would be from 378 Ringwood Road, as the lease was set circa seven months post AVD of 1 April 2015. Mr Price informed the panel that the use of this hereditament was an A3 unit, as a takeaway and the appeal property was an A2 unit. However, the panel was aware that 378 Ringwood Road had been entered into the rating list as a shop and premises. Ms Parsons had stated that the rent had been analysed at £280.44/m^2, which more than supported the adopted value of £250/m² on this property. The panel noted that 378 Ringwood Road was under the same scheme and supported the assessment of the subject hereditament. Therefore, the panel placed the greatest weight on this comparable property.

24. Mr Price argued that 300 Ringwood Road was a car sales property with a number of car sales pitches on the front of the hereditament. He stated that this was in a different mode and category of occupation, so should carry little weight. The panel considered this statement but having viewed the photographs of 300 Ringwood Road noted the points raised by Mr Price of the forecourt, but agreed with Ms Parsons that the hereditament is a retail unit even though a car sales shop. It cannot be considered a car showroom as it cannot house a car within the retail unit.

25. The panel considered the rents of 92, 300 and 612 Ringwood Road to be too far removed from the AVD to be of assistance.

26. Ms Parsons had also provided a list of comparable hereditaments located on Ringwood Road. These consisted of retail units with measurements that ranged from 16.60m² to 453.90m². All of the units had an adopted Zone A value of £250/m² which showed that the tone for retail units along Ringwood Road had been set.

27. The panel considered that the rental evidence of 378 Ringwood Road, along with the tonal evidence supported the existing adopted Zone A value for the subject hereditament and therefore, dismissed the appeal.

Date: 26 July 2022

Appeal number: CHG100618067

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.