THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; shop and premises; unit price per square metre disputed; comparable properties; appeal dismissed.

RE: Festival Shops, 12 Gilkes Street, Middlesbrough, Cleveland, TS1 5ES

APPEAL NUMBER: CHG100646106

BETWEEN:	Mr Wilson	Appellant
	and	
	Ms A Hitchings	Respondent
	(Valuation Officer)	

PANEL: Mrs M Cole (Senior Member) and Mr M Bhatti

CLERK: Mrs S Morgan

REMOTE HEARING: Friday 10 June 2022

PARTIES PRESENT: Ms L Willis – Valuation Officer's representative

Mr J Weastell of Biz Rates UK Ltd – Appellant's representative

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Summary of decision

1. The appeal was dismissed. The panel confirmed the appeal property had been correctly valued as a shop and premises at £27,250 rateable value (RV) with effect from 16 August 2017.

Introduction

2. This is a 2017 rating list appeal. Festival Shops, 12 Gilkes Street, Middlesbrough (the 'appeal property') is a standard retail unit in the town centre of Middlesbrough. It had been entered in the 2017 rating list as 'shop and premises' at £27,250 RV with effect from 16 August 2017.

3. The challenge submission was made by Biz Rates UK Ltd on behalf of Mr Wilson and was received by the Valuation Officer on 9 March 2020. It had been made on the grounds that the appellant's representative believed that the rent of £25,000 per annum (pa) from August 2017 and the comparable property details, made the main space rate of £560/m^2 more appropriate. He therefore sought a revised RV of £23,750 with effect from 16 August 2017.

4. The Valuation Officer issued a challenge case decision notice in which it was stated that based upon the evidence and information available, the existing rateable value based on £645/m^2 in terms of zone A (ITZA) was reasonable.

5. Mr Weastell appeared on behalf of the appellant as both advocate and expert witness on a fixed rate. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Weastell 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.

6. 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.

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 main issue in dispute concerned the price per square metre adopted by the Valuation Officer. The appellant's representative sought a reduction in zone A price to £560/m^2 whilst the Valuation Officer contended that £645/m^2 was reasonable.

Evidence and submissions

9. 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, photographs of the appeal property and comparable properties, the definition of rateable value and case law.

10. The appeal property is a semi-detached shop and premises which is surrounded by other retails units including The Cleveland Shopping Centre and Captain Cook Square. It is located in a high pedestrian area within Gilkes Street converging on to other streets in the town centre.

11. The ground floor comprises a zoned sales area and a storage area on the first floor. The total floor area is 97.73m^2 or 41.97m^2 ITZA.

12. The appeal property was let to the current occupier on 18 August 2017 for £25,000 pa.

Decision and reasons

13. The issue for the panel in this appeal was whether the evidence submitted to it by the appellant's representative had shown that the Valuation Officer's valuation was excessive. The main issue in dispute concerned the level of value adopted for the retail shop space.

14. The statutory definition of Rateable Value referred to a rent agreed between a hypothetical landlord and tenant. For this purpose, a property should be valued vacant and to let and assumed to be in a reasonable state of repair unless any outstanding repairs were of a type that meant they were uneconomic for the landlord to undertake. The weight to be attached to that evidence would be dependent upon how closely that rent resembled the terms of the Rateable Value definition as found in Schedule 6 to the Local Government Finance Act 1988.

15. The appellant's representative believed that the basis of assessment adopted by the Valuation Officer of £645/m^2 ITZA was excessive by comparison with other retail properties in the immediate vicinity and should be reduced to £560/m^2 ITZA. With the aid of a plan, the appellant's representative explained that the shops in Linthorpe Road were assessed at £560/m^2 and £520/m^2, Captain Cook Square was valued at £370/m^2, Newport Crescent was at £500/m^2, and the remainder of Gilkes Street was valued at £645/m^2 ITZA.

16. The appellant's representative referred to evidence of a new lease on the appeal property in April 2015 at £28,000 pa IRI (less 5% external repairs) giving £26,600 pa, which devalued to £620/m^2. Based on the information available, he believed that £26,500 pa was appropriate at 1 April 2015. However, due to the high vacancy levels, he proposed to take the passing rent at £25,000 pa, less 5% for external repairs, to equal £23,750. This devalued to a zone A figure of £563/m^2. This was the same as 69 Linthorpe Road, which sat on the corner of Gilkes Street and Linthorpe Road, on the main shopping street in Middlesbrough. This had a zone A rate of £560/m^2. He argued that Gilkes Street could not be higher than Linthorpe Road or almost twice as high as the purpose-built Captain Cook Square shopping centre adjacent.

17. The appellant's representative also referred to a retail survey carried out in 2016 by Middlesbrough Council. "In terms of zone A rental values, Cheetham and Mortimer assessed Cleveland Shopping Centre and Hill Street Shopping Centre at £80 - £85/sq ft. However, zone A rents in the Dundas Shopping Centre and Captain Cook Square, are considerably lower, with the Dundas Centre only achieving £45/sq ft and Captain Cook Square only achieving £40/sq ft". The appellant's representative therefore contended that Gilkes Street would be at the lower end of the values.

18. In addition, the appellant's representative referred to the 2015 vacancy rates, where it was reported that 22.6% of retail units in Middlesbrough Town Centre were vacant. This was twice the rate of the National Average. The appellant's representative believed that his

proposed RV of £23,750 would reflect the 2017 letting, the vacancy rates, the appeal property being located on the wrong side of Gilkes Street and the level of value in the Captain Cook Shopping Centre.

19. The respondent confirmed that the appeal property had already been reduced from £735/m^2 to £645/m^2 and was now in line with those units on the opposite side of the road in Gilkes Street. This appeal was against the Valuation Officer's Notice of Alteration.

20. In her evidence, the respondent stated that there was no record of the 2015 lease for the appeal property but there was an earlier lease in 2012 for three years which analysed to £595/m^2. With regard to the level of value in Linthorpe Road, Captain Cook Square, Newport Crescent, reference was made to the rental summary. The rental evidence showed that the level of value decreased for these properties compared to the appeal property.

21. With regard to properties in Gilkes Street, the respondent referred to an April 2014 rent of £25,000 pa for 9 Gilkes Street, which analysed to £698/m^2, with an adopted unit price of £645/m^2 one year prior to AVD. This was the strongest weighted evidence for properties in Gilkes Street. In addition, there was a July 2017 rent of £23,000 pa for 13 Gilkes Street which also supported the £645/m^2 adopted rate for properties in this road. There was no evidence to suggest that properties on the opposite side of the appeal property in Gilkes Street had a decreased level of value.

22. The closest rent to AVD was 47 Linthorpe Road. This property was larger than those in Gilkes Street. There was a February 2015 rent of £52,500 pa, which adjusted to £35,885 pa. The rent analysed to £529.04/m^2 with an adopted unit value of £560/m^2. The level of value was reflective of those in Linthorpe Road, which was lower than the analysed rents in Gilkes Street.

23. The respondent believed that the current main space price of £645/m^2 for the appeal property was in line with other properties in Gilkes Street and was supported by the rental evidence. She sought a dismissal of the appeal.

24. Having examined the evidence from both parties, the panel determined that the assessment should not be reduced. The panel noted the various rents in Gilkes Street ranged from £595.66/m^2 for a 2012 and 2017 rent on the appeal property to £707.20/m^2 for a 2017 rent on 13 Gilkes Street. The strongest weighted evidence was that of 9 Gilkes Street which analysed to £648/m^2 against the adopted value of £645/m^2, within one year of the AVD. The panel found that after taking into account the basket of rental evidence in Gilkes Street, the appeal property supported the £645/m^2 main space price applied to the other assessments in that road.

25. In relation to the rental evidence for the other comparable properties in Linthorpe Street, Newport Crescent, Captain Cook Square and Dundas Street, the panel found that they did not add any weight to the appellant's representative's arguments for a lower base rate. These properties were situated in different locations within the town centre and the rental evidence supported the levels of value in those locations, which was lower than those units in Gilkes Street.

26. The panel noted that there were no reasons given as to why the vacancy rate was at 22.6% in the 2015 report on retail units in Middlesbrough Town Centre. Looking at the two rents for

9 and 13 Gilkes Street it showed an increase in the analysed rents between 2014 and 2017 and therefore little weight was attached to the vacancy rate.

27. In appeals of this nature the burden of proof rested on the appellant’s representative to prove his case for a reduction. However, in the case before it, the panel concluded that he had failed to produce sufficient evidence to justify his claim for a reduction in the level of value. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated, and the appeal was dismissed.

Date: Friday 8 July 2022

Appeal number: CHG100646106

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.