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: 10 The Meadows, Chelmsford, CM2 6FD

APPEAL NUMBER:	CHG100655847	
BETWEEN:	Roman Originals	Appellant
	and	
	Ms D Bunyan, Valuation Officer	Respondent
PANEL:	Mr J M Imperato (Senior Member) Mr M Nwosu	
CLERK:	Mrs L Horne	
REMOTE HEARING ON:	Thursday 17 November 2022	
APPEARANCES:	Mr C Strong from Altus Group, representing the appellant Mr A Singh representing the Valuation Officer	

Summary of decision

1 Appeal dismissed. The Rateable Value (RV) of the appeal property is confirmed at £55,500 with effect from 1 April 2017.

Introduction

2 This is a 2017 rating list appeal. 10 The Meadows, Chelmsford, CM2 6FD, (the ‘appeal property’) had been entered in the 2017 rating list as ‘shop and premises’ at a RV of £57,500 with effect from 1 April 2017.

3 The challenge proposal was submitted by Altus Group on behalf of Roman Originals and was received by the Valuation Officer on 15 March 2021. It had been made on the grounds that the RV shown in the rating list was inaccurate and proposed a revised RV of £34,500 with effect from 1 April 2017 (based upon an adopted Zone A price of £400 per m^2).

4 The Valuation Officer issued a challenge case decision notice on 25 May 2022, which disagreed with the proposed alteration of the list but stated that the rating list entry was unreasonable based on the evidence and information available. The RV was altered to £55,500 based upon a reduction of the Zone A price per m^2 from £675 to £650 per m^2.

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 received on 25 May 2022 requested a revised RV of £50,500 based upon a Zone A price of £590 per m^2.

6 As Mr Strong appeared on behalf of the appellant as both advocate and expert witness, the clerk asked if there was a success related fee involved, in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC). Mr Strong confirmed that he was instructed under a contingency fee and he declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

7 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).

8 The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

9 The appeal property is a retail unit located within the Meadows Shopping Centre in Chelmsford. The property has a total area of 266.6 m^2, or 84.18 m^2 in terms of Zone A (ITZA) and is presently valued at a Zone A price of £650 per m^2.

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

Issue

11 The issue in dispute is the Zone A price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

12 The bundle comprised the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice; and appellant's challenge submission. Both parties referred to the leading

judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

13 On behalf of the appellant, Mr Strong contended that the subject rent and comparable rental evidence supported a Zone A price of £590 per m^2. He therefore requested an alteration to £50,500 RV with effect from 1 April 2017.

14 On behalf of the Valuation Officer, Mr Singh defended the present Zone A price of £650 per m^2 with reference to rental evidence close to the antecedent valuation date (AVD) of 1 April 2015.

Decision and reasons

15 In arriving at the 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.

16 In respect of an appeal against an entry in 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).

17 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.

18 Both parties had referred to *Lotus and Delta* in support of their respective cases. This was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent.

19 According to Mr Strong, the subject property was leased by the appellant from 18 March 2016 at an annual rent of £45,000 for 10 years with 18 months' rent free. He analysed the rent at £401 per m^2 which he submitted demonstrated that the present Zone A price of £650 per m^2 was excessive.

20 Mr Singh stated that there was no reference to a rent free period in the form of return held by the Valuation Officer; this had been completed by the occupier. The analysis of both scenarios was scheduled in the regulation 17 notice: £384.61 per m^2 with 18 months rent free, or £472.26 per m^2 with no rent free period. With reference to the rental transactions which had taken place closer to the AVD, it was the Valuation Officer's opinion that the subject rent was an outlier.

21 In accordance with *Lotus and Delta*, while the subject rent is the starting point, it should be considered alongside the basket of evidence, and not in isolation. The panel therefore turned to the available rental evidence from The Meadows Shopping Centre.

4 The Meadows

A unit of 85.1 m^2 (49.9 m^2 ITZA). A new lease effective from 12 January 2015 at a rent of £37,000 analysed at £646.29 per m^2.

9 The Meadows

A unit of 219.5 m^2 (88.14 m^2 ITZA). A rent review effective from 25 March 2014 at a rent of £50,000 analysed at £567.28 per m^2.

12 The Meadows

A unit of 325.5 m^2 (88.36 m^2 ITZA). A lease renewal effective from 1 January 2017 at a rent of £60,000 analysed at £679.04 per m^2.

Unit 23, 37 The Meadows

A unit of 100.6 m^2 (52.15 m^2 ITZA). A new lease effective from 1 October 2014 at a rent of £52,000 analysed at £947.27 per m^2.

Unit 26, 34 The Meadows

A unit of 111.7 m^2 (71.84 m^2 ITZA). A new lease effective from 16 September 2014 at a rent of £60,000 analysed at £646.72 per m^2.

Unit 28, 32 The Meadows

A unit of 128.94 m^2 (73.96 m^2 ITZA). A new lease effective from 19 September 2014 at a rent of £50,000 analysed at £627.10 per m^2.

Unit 29, 31 The Meadows

A unit of 305.9 m^2 (140.12 m^2 ITZA). A lease renewal effective from 23 November 2016 at a rent of £94,500 analysed at £559.28 per m^2.

22 Mr Strong submitted that those properties subject to a new lease were the key comparables:

- The appeal property - £401 per m^2;
- 4 The Meadows - £646 per m^2;
- Unit 26, 34 - £646 per m^2;
- Unit 28, 32 - £627 per m^2.

23 He had attached no weight to Unit 23, 37 The Meadows at £947 per m^2 as he considered that this was out of line. While he attached less weight to the rent review and lease renewal transactions, Mr Strong highlighted that only one analysed higher than the present Zone A price of £650 per m^2.

24 The panel noted that the rent closest to the AVD was in respect of 4 The Meadows. This was a new letting which analysed at £646.29 per m^2, close to the present Zone A price of £650 per m^2. Rental transactions in March, September and October 2014 ranged between £567.28 and £947.27 per m^2. The subject rent at either £384.61, £401.00 or £472.26 per m^2 was the lowest analysed rent and therefore appeared to be an outlier, along with Unit 23, 37 which Mr Strong had rejected as being out of line.

25 In further support of his contention that the valuation of the appeal property was excessive, Mr Strong had cited the tone reduction on Unit 30A from £650 per m^2 to £450 per m^2. However, the panel was aware that Unit 30A was in a different part of the shopping centre and along with Unit 30, was subject to a lower price per m^2 than Units 2 to 29.

26 In arriving at the decision that a Zone A price of £650 per m^2 was not unreasonable, the panel also took into account the fact that the tone for the shopping centre had been subject to the following reviews:

	2017 list	February 2018 review	Recent review
Units 2 to 29	£800 per m^2	£675 per m^2	£650 per m^2
Units 30 and 30A	£650 per m^2	£450 per m^2	

27 Mr Singh confirmed that the February 2018 review involved consultation with a number of professional rating agents. The most recent review had taken account of all the available rental evidence.

28 In appeals of this nature the burden of proof is on the appellant's representative to show that the valuation of the appeal property is not reasonable. Based upon his reliance on the subject rent and a unit located in a different part of the shopping centre, the panel was not satisfied that he had discharged this burden.

29 The panel concluded that the Valuation Officer had supported the present Zone A price of £650 per m^2 with reference to rental and comparable assessment evidence, and therefore the appeal was dismissed.

Date: 2 December 2022

Appeal Number: CHG100655847

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.