VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; Local Government Finance Act 1988; bank and premises; accuracy of compiled list entry; appeal dismissed.

APPEAL NUMBER: CHG100722842

RE: Barclays, 2-12 Pinstone Street, Sheffield, S1 2HN
(the “subject property”)

BETWEEN:	Barclays Bank Plc	Appellant
	and	
	Joanne Moore (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Tuesday 7 May 2024

BEFORE: Mr D Greensmith, Presiding Senior Member
Mrs FER Duggan, Member

CLERK: Mrs K Edhouse-Thomas IRRV(Hons)

APPEARANCES: Mr R Haywood of Jones Lang LaSalle Ltd, for the appellant
Mr H Hussain, for the respondent

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal panel determined that the assessment was not unreasonable at £365,000 Rateable Value (RV) with effect from 1 April 2017.

Introduction

3. The appellant’s representatives had made a challenge against the accuracy of the rateable value in the 2017 Rating List, by way of a proposal that they served on the valuation officer

on 26 August 2021. After considering the proposal and evidence submitted during the challenge period, the valuation officer altered the assessment from £430,000 RV to £365,000 RV with effect from 1 April 2017. A decision notice to that effect was served on the appellant on 20 April 2023 and its representatives then appealed the valuation officer's decision to the Valuation Tribunal for England (VTE) on 15 August 2023, on the grounds that the valuation for the hereditament was not reasonable, under Regulation 13A of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009. The material day was 1 April 2017, this being the date of the compiled list.

4. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

5. The subject property is located on the corner of Pinstone Street and Barkers Pool in Sheffield city centre. It is adjacent to the prime pedestrianised retail area on Fargate. The accommodation is over six floors from the basement to the fourth floor and has a gross internal area (GIA) of 3271.10m^2. The best quality customer and office areas between the basement and first floor are linked by a central spiral staircase, all floors are accessible via a lift and two rear staircases, there are no escalators.

6. The subject hereditament had been a bank since 2008 but had been assessed as a large shop with an overall unit rate of £150/m^2. It had an RV of £430,000 with effect from 1 April 2017. The appellant initially proposed a revised RV of £300,000 based on a zoned approach, proposing a zone A rate of £900/m^2 plus 5% for return frontage. The valuation officer agreed to value using the zoning method, but the RV was revised to £365,000 with effect from 1 April 2017, based on a zone A rate of £1,100/m^2.

7. After further reflection, the appellant's representative sought a reduction to RV £278,250 from 1 April 2017.

8. Mr Haywood appeared in dual role of advocate and expert witness, both himself and his firm were not on a conditional fee. The dual role is allowable in VTE proceedings having regard to procedure regulations[1] and rules regarding admissibility of evidence[2]. However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

9. Mr Hussain was not the original case worker for the respondent. He did not state that he was appearing in the role as an expert witness.

10. Five days prior to the hearing, the valuation officer made an application for a postponement, in order that he could undertake an inspection of the subject property. On behalf of the Tribunal, this request was refused by the Tribunal clerk because the check, challenge and appeal regime for non-domestic rating requires the facts of the case to have been resolved well before any appeal is made to the Tribunal.

[1] Regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.
[2] Regulation 17(2)(a) (Evidence and submissions) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

Preliminary issue

11. The appellant's representative was seeking a reduction to £278,250 with effect from 1 April 2017. At the hearing, he stated that he wanted the Tribunal to allow a further reduction of 10% with effect from 30 June 2021 if this appeal was successful. This was because the valuation officer had reduced the RV by 10% with effect from 30 June 2021 due to a material change of circumstances. However, having regard to the scope of the appeal (compiled list appeal), the Tribunal clerk advised in open session that the panel could only determine the rateable value from 1 April 2017.

Relevant Law

12. The term 'rateable value' was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

Discussion

13. Mr Haywood argued that the location of the subject property was the main factor in this appeal. In his opinion, footfall within Sheffield city centre is driven by public transport, with a tram system and buses. He highlighted to the panel that the two main tram stops were in the traditional shopping area of High Street, and that Fargate was fed by High Street. He stated that Pinstone Street was considered secondary to these streets, which was borne out by lower zone A rates. Most shoppers would have to pass Fargate and High Street to reach Barkers Pool and Pinstone Street. He argued that John Lewis to the west of the subject property had its own large car park and that John Lewis shoppers would usually park there.

14. In Mr Haywood's expert opinion:
    - The subject property was in an inferior location to the comparable properties relied on by the valuation officer on High Street and Fargate.
    - There were three distinct retail areas within the city centre depending on the proximity to the pedestrianised area and access to the tram and bus stops. The rental values varied depending on which area the property was located in.
    - That 2-8 Barkers Pool was in a similar location and prominence but was assessed at a zone A price of £775/m^2.
    - Nationwide Building Society, almost opposite, was £750/m^2.

15. The valuation officer argued that the appeal property rent should not be disregarded. A new 15-year lease had been agreed with effect from 30 July 2008 at £500,000pa. There had been a rent review in 2013, with a nil uplift. However, the panel established at the hearing that it was an upward only rent review so potentially the parties to that review may have considered the rent was too high in 2013, as opposed to being at the correct level. Whilst the panel had regard to the appeal property rent, it shared Mr Haywood's concerns about placing too much reliance on this rent because the initial rental figure agreed in 2008 was too remote from the AVD. However, the panel held that it ought to be taken into account but noted the potential drawback with the evidence.

16. There was rental evidence of one other property. This related to Halifax at 30-34 High Street. The passing rent was £297,500 with effect from 13 June 2013, which analysed to a zone A price of £1394/m^2. However, Mr Haywood had confirmed with a representative for Halifax that this was not an arm's length market transaction. Neither party put great emphasis on other rents available. Ultimately, the panel did not consider any of the comparable rental evidence to be compelling evidence.

17. In defending the existing price applied to the appeal property the valuation officer referred to other banks in Sheffield city centre. The panel considered this to be a reasonable approach because the mode or category of occupation of the subject property was a bank. This was one of the Schedule 6 matters that had to be taken into account on the material day. He referred to two properties on the other side of the square to the subject property. Firstly, Yorkshire Bank, which he stated was on a prominent corner plot. The rateable value for this property assessed at £277,500 based on a zone A rate of £1,850/m$^{2.}$ The second property was HSBC. The rateable value assessed at £317,500 with a zone A rate of £1,850/m^2. He stated that these properties were in close proximity to the subject property but were in a more desirable area on the prime pedestrianised retail street in Sheffield, for that reason he considered that the zone A price for the subject property should be lower.

18. The valuation officer also referred to two properties on the other side of Fargate, but slightly closer to the subject property. The first one being Virgin Bank. This was also on a corner plot. The rateable value assessed at £312,500 based on a zone A rate of £1,500/m^2. The Metrobank was next door. The rateable value assessed at £265,500 with a zone A rate of £1,500m^2. He stated that the zone A price was lower to reflect the peak being at Fargate. He also expected the zone A price to be lower for the subject property.

19. The valuation officer further referred to Halifax Bank and Lloyds Bank, both located on High Street. He stated that Halifax Bank was the closest comparison to the subject property in terms of size and layout. The rateable value for Halifax Bank assessed at £248,000 based on a zone A rate of £1,200/m^2. The rateable value for Lloyds Bank was £232,000 based on a zone A rate of £1000/m^2.

20. The panel was most influenced by other banks within close proximity of the subject property. Yorkshire Bank and Virgin Bank were both on corner plots like the subject property and shared similar prominence. They were assessed with a zone A rate of £1,850/m^2 and £1500/m^2 respectively. HSBC and Metrobank were slightly further away and were not on corner plots. They assessed at £1,850/m^2 and £1,500/m^2. The location of Nationwide was set back and not as prominent. This assessed at a zone A rate of £750/m^2.

21. The panel considered Leeds Building Society at 14 Pinstone Street, next door to the subject property. This property was much smaller and had a much less prominent position. It was assessed at £845/m^2. The panel considered that the subject property had to be higher than this figure.

22. The panel further considered the zone A rate for H L Brown Jeweller at 2-8 Bakers Pool, which was assessed at £775/m^2. This property was on a corner plot directly opposite. In the panel's opinion, this was the appellant's strongest evidence. However, the panel considered that the assessment for this property appeared to be low, given its prominence and having regard to similar sized hereditaments in the vicinity. It appeared to be out of kilter with the other four big units on the corners.

23. Given the above comparable evidence of other banks and being mindful of the appeal property rent being £500,000 (with the rateable value already being substantially less), the panel had concerns about reducing the rate further. The zone A rate adopted by the valuation officer had taken into consideration the prominence of the property as well as an adjustment for the distance from the prime locations at Fargate and High Street.

Disposal

24. In view of the above findings and conclusions, the Tribunal panel is satisfied that the rateable value of £365,00 for the subject hereditament was not unreasonable, and the appeal is therefore dismissed.

Date issued to parties: 29 May 2024

Right of further 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.