THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Shop and Premises; accuracy of rateable value; rental and comparable evidence considered; found that weight of evidence supported the current assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. *Decision: Dismissed.*

RE: Former Colin Noble & Sons, 6 Holmeside, Sunderland, SR1 3JG

APPEAL NUMBER: CHG100744341

BETWEEN:	Mr Michael Hodgson	Appellant
	And	
	Amanda Hitchings (Valuation Officer)	Respondent

PANEL: Mr K Everett (Presiding Senior Member)
Mr K Sutch (Senior Member)

REMOTE HEARING 3: 6 June 2023
CLERK: Mr J N Massey
APPEARANCES: Mr M Hodgson - Appellant.
Mr O Ridley for the Valuation Officer.

Summary of decision

1. Appeal Dismissed. The panel considered that the existing entry in the Rating List for Former Colin Noble & Sons, 6 Holmeside, Sunderland, SR1 3JG (the “subject property”) of Rateable Value (RV) £23,000 was reasonable.

Introduction

2. This was a 2017 Rating List appeal. The appeal property had been entered in the 2017 rating list as ‘Shop and Premises’ at a RV of £23,000 with effect from 1 November 2020.

3. The challenge proposal was submitted by the appellant and was received by the Valuation Officer (VO) on 26 October 2021. It had been made on the grounds that the RV shown in

the rating list on 1 November 2020 was wrong. A revised RV of £10,000 was proposed with effect from 1 November 2020.

4. The Valuation Officer issued a challenge case decision notice on 30 November 2022, which stated that based upon the evidence and information available, the rating list entry of £23,000 RV was considered to be reasonable and there would be no amendment.

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 December 2022.

6. The subject property comprised a shop situated on the ground floor in a parade of shops on Holmeside in Sunderland. It had an agreed area of 64.18 m^2 in terms of Zone A.

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

Issue

8. The issue between the parties concerned the RV of the appeal property. The appellant sought a reduced entry of £10,000 RV based on a Zone A rate of £225 per m^2, an end allowance of 15% due to demolition works on 35 to 40 Holmeside and an allowance of 17.5% due to the number of vacant retail units. On behalf of the respondent, Mr Ridley defended the Valuation Officer's existing assessment of £23,000 based on a Zone A rate of £350 per m^2.

Evidence and submissions

9. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, the parties' skeleton arguments, and photographs of the appeal property and other shops in its immediate locality.

Decision and reasons

10. The term 'rateable value' is defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

"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".

11. 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).

12. 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 November 2020.

13. The respondent had referred *to Lotus and Delta v Culverwell*. This Lands Tribunal judgment provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

14. Mr Hodgson had relied heavily on the subject property's rent to justify a reduction in its RV. Whilst it had been let to the previous tenants, Ladbrookes in March 2014 for £25,000 pa, they had vacated in July 2017 and the subject property remained vacant until October 2010 when a letting was agreed with a new tenant at a rent of £10,000 pa. The new tenant vacated the subject property in May 2022. He considered that there had been a downturn in rents in the area since the AVD due to a number of factors and asserted that the RV of the subject property should reflect this.

15. Mr Hodgson also considered that the Zone A rate of £350 per m^2 applied to the subject property was excessive compared with other properties on Holmeside, which were assessed at £225 per m^2. He considered that the discrepancy in Zone A rates between the upper and lower parts of Holmeside was excessive, particularly as rates along Blandford Street and Maritime Terrace, which ran parallel to Holmeside, did not vary to anything like the same extent.

16. According to Mr Ridley, the rent on the subject property and neighbouring properties indicated that there was a differential in values along Holmeside. The panel noted that the rent on the subject property, agreed 12 months prior to the AVD had been analysed at £366.91 per m^2 in terms of Zone A (ITZA). The rent on Grd Floor and Basement, 7 Holmeside had been agreed seventeen months after the AVD and analysed to £342.00 per m^2 ITZA. Mr Ridley had also provided detail of rents agreed between 31 January 2013 and 1 June 2016 for retail units located between 11 Holmeside and 21 Holmeside, and these rents had analysed to between £191.97 and £228.62 per m^2 ITZA.

17. The panel considered that the rents agreed on properties along Holmeside supported the higher rates of £350 and £375 per m^2 ITZA applied to properties located between 1-7 Holmeside. The rents also demonstrated that the properties located from 11 Holmeside onwards justified a lower Zone A rate of £225.00 per m^2.

18. Mr Hodgson had provided evidence of a decline in rents in the immediate locality of the subject property, including that of the subject property. However, the panel was aware that it is required to consider the economic factors as they stood at the AVD in determining the correct RV for the subject property, and it cannot therefore take into account the downward trend in rents after the AVD. The rent passing on the subject property close to the AVD was £25,000 pa and the panel considered that this supported its current assessment at RV £23,000.

19. Mr Hodgson had also provided photographs of Holmeside, depicting the demolition of a number of properties, and of Maritime Terrace and Maritime Street, showing the lack of footfall and the number of closed retail units. He considered that the allowances of 15% applied to numbers 11 to 24 Holmeside due to the demolition of 35-40 Holmeside should also be applied to numbers 1-7 Holmeside. An allowance of 17.5% had also been applied in respect of numbers 11,12 and 14 to 24 Holmeside for 'vacancy', which Mr Hodgson asserted should also be applicable to the subject property.

20. Mr Ridley referred to the location of numbers 1-7 Holmeside, which were located further away from the demolition works, and closer to the main thoroughfare in the centre. He did not consider that there would be a noticeable effect on footfall as a result of the demolition works and an allowance was therefore not applicable. The panel noted from the photographs and map that the subject parade was not located directly opposite the demolition works, whereas those properties for which an allowance had been applied were. It considered that the visual impact and the effect of footfall on the subject property was therefore not sufficient to warrant a reduction.

21. Similarly, Mr Ridley had considered that the 17.5% allowance for vacancy was not applicable to the subject property. This had been applied to a number of properties further along Holmeside as a result of a number of retail units being vacant along that stretch. He considered the location of the subject property on a parade with no other vacant properties indicated that the effect of vacancy on rents in its location was minimal, and such an allowance was not therefore applicable. The panel considered from the photographs and plans provided that the subject property was located in a busier part of Holmeside, and that footfall was not affected to anything like the same extent that it was further along Holmeside. It therefore did not consider that an allowance for 'vacancy' was applicable to the subject property.

22. The panel appreciated that the rent achieved around the material day for the subject property and those on the same parade had dropped drastically since the AVD. However, it did not consider that the evidence before it showed that this fall was due to physical changes to the locality rather than a change in the economic climate. As it was unable to take economic changes into account, it considered that the RV of £23,000 applied to the appeal property was reasonable and dismissed the appeal.

Date: 23 June 2023

Appeal number: CHG100744341

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.