THE VALUATION TRIBUNAL FOR ENGLAND

*Non-Domestic Rating; 2017 Rating List; Shop and premises; Price per square metre; Rental evidence/assessment of comparable properties; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; appeal allowed in part.*

Re: 34 and 35 Longfield Centre, Prestwich, Manchester, M25 1AY

APPEAL NUMBER: CHG100765970

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| BETWEEN: | Done Brothers (Cash Betting) Limited | Appellant |
| | and | |
| | Ms A Morley (Valuation Officer) | Respondent |

BEFORE: Mrs A O Adeola (Senior Member) and Miss E Antrobus

CLERK: Miss K Hendry

REMOTE HEARING: Monday 11 September 2023

APPEARANCES:

Mr J Hart of Hart Commercial Surveyors Ltd (on behalf of the Appellant)
Ms R Fahy (Respondent's representative)

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**Summary of decision**

1. Appeal is allowed in part. The panel determined the rateable value (RV) of £31,000 with effect from 1 April 2017.

**Introduction**

2. This appeal has been brought in respect of the following: 34 and 35 Longfield Centre, Prestwich, Manchester, M25 1AY which was entered in the 2017 Rating List as shop and premises at rateable value (RV) £34,250 effective from 1 April 2017.

3. Following the appellant's appeal, the Valuation Officer (VO) offered a revised RV £31,000 with effect from 1 April 2017.

4. The appellant’s challenge to the VO was made on 18 January 2022. The appeal to this Tribunal was made on 13 April 2023 following the VO’s Decision Notice of 20 December 2022, in respect of the appeal property (hereditament). This is a compiled list appeal so the material day is 1 April 2017.

5. The appeal property was built in 2007 with a refurbishment occurring in 2015. The appeal property is part of a complex and is constructed of brick walls and concrete roofing. It was situated just off the A56, with the M60 in close proximity and Manchester city centre was located four miles away.

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

**Issue**

7. The correct rateable value for the appeal property, with effect from 1 April 2017

**Evidence and submissions**

8. The bundle provided contained the parties’ respective cases and supporting documents.

**Decision and reasons**

9. The appeal 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 to the Local Government Finance Act 1988). The date of the hypothetical rent was 1 April 2015 (AVD). Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

10. The panel had regard to the Lands Tribunal judgment of *Lotus & Delta Ltd* as referred to by both parties. This case had established six propositions, which gave clear guidance to be followed when assessing rateable value, namely:

    1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

    2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

    3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

    4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the VO. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties.

6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.'

11. Bearing these six propositions in mind, the panel acknowledged that the correct starting point in this appeal was the actual rent passing on the appeal property.

12. Mr Hart sought a reduction to £27,250 based RV on a Zone A price of £250/$m^2$. A reduction from £300/$m^2$.

13. The appeal property was held on a new ten-year lease from 14 November 2014 at a rent of £33,000 per annum (pa) with a rent review every five years. A management company was responsible for the insurance therefore Mr Hart argued that an adjustment of 3.5% should be applied.

14. There was also a rent-free period of 5.5 months at the start of the lease which was not in lieu of required works, but a rent incentive due to market conditions. In his opinion the VO ignoring the full period was dated and arbitrary practice. In support of his argument, he referred to a case before the Central London County Court which considered the rent payable on a lease renewal of a ground floor pharmacy unit at Old Street, EC1 (*Old Street Retail Trustee (Jersey)1 Ltd and another v GB Healthcare Ltd*) and it was agreed that the comparable rents from lettings should have the rent free analysed.

15. Therefore, Mr Hart explained that he had adjusted the rent to include the 5.5 months free rent, which equated to £28,468 pa, or £254/$m^2$ Zone A.

16. Ms Fahy disagreed with the rent being analysed allowing for the full 5.5 rent free period. She argued that only three months should be given which was standard procedure in the market. This was applied to all retail units whether the works took three months or not; in this case the works only took 12 weeks. In response to the case quoted by Mr Hart, Ms Fahy argued that this case did not prove that allowing the additional rent free period should be carried out as standard practice as this case specifically points out how unusual all the lettings were due to the demise of the town centre with a vast range of different kinds of incentives offered which made it difficult to analyse.

17. Ms Fahy had analysed the rent to £278.28/$m^2$. Based on the analysis of rent, the VO had reduced the Zone A price of £300/$m^2$ to £270/$m^2$.

18. She also argued, having considered the lease, that the service charge was utilised to cover the insurance cost of the property. This suggested that it could be considered on FRI terms and therefore there should not be an adjustment of 3.5%.

19. Having regard to all the evidence, the panel concluded that the reduced rate of £270/$m^2$ Zone A was not excessive and was not persuaded to reduce it further to £250/$m^2$ as being sought by the appellant's representative. The panel accepted that three months rent free period should apply as this was the norm and accepted that the case quoted by Mr Hart was due to exceptional circumstances.

20. The panel found no evidence to support Mr Hart's 3.5% adjustment, which was based on his opinion. They upheld the VO's argument that the appeal property should be considered on FRI terms.

21. The panel therefore allowed the appeal in part and confirmed a revised RV of £31,000 with effect from 1 April 2017.

**Order**

22. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to reduce the entry in the rating list to rateable value £31,000 with effect from 1 April 2017.

23. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

**Refund of appeal fees**

24. As the grounds of the appeal have been made out, a refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

**Date:** 29 September 2023

**Appeal number:** CHG100765970

**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.