VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeals: Retail shops in Northampton town centre; Paragraph 2 (7) (d) of Schedule 6 to the Local Government Finance Act 1988; Material change of circumstances; Opening and subsequent expansion of the Rushden Lakes Shopping Centre; within the locality; appeals allowed.

APPEAL NUMBERS:	CHG100884838, CHG100884834, CHG100884829, CHG100863772, CHG100863782, CHG100767063 and CHG100768812
RE:	Unit 37 To 38,Weston Favell Centre,Northampton,NN3 8JZ (1), 265-267, Wellingborough Road, Northampton NN1 4EN (1), 18/20 The Drapery, Northampton NN1 2HG (1), 02 Unit, 45 Weston Favell Centre,, Northampton NN3 8JZ (2), 02, 12 Abington Street, Northampton NN1 2AJ (2), 68-72 Abington Street, Northampton NN1 2AJ (3) and 34 Gold Street, Northampton NN1 1RS

BETWEEN:	Barclays Bank Plc (1), Telefonica UK Ltd (2) & Poundland Limited (3)	Appellants
	and	
	Joanne Moore (Valuation Officer)	Respondent

SITTING:	*remotely using Microsoft Teams*
ON:	Thursday 27 June 2024
BEFORE:	Gary Garland (President)
CLERK:	David Slater (Registrar and Chief Clerk)
APPEARANCES:	Chris Pockett from Jones Lang LeSalle for Barclays Bank Plc Michael Hampton-Riddington from Cluttons for Telefonica UK Ltd Laurence Hatchwell from Colliers International for Poundland Richard Hitchens for the Valuation Officer

DECISION AND STATEMENT OF REASONS

Summary of decisions

1. The appeals were allowed and the entries reduced by 7½%, the allowance previously agreed between the parties for the impact of the Rushden Lakes Shopping Centre, with effect from 28 June 2019.

Introduction

2. All of the appeal shops were located within Northampton town centre. In each case, a proposal had been made on the grounds of a material change of circumstances. The material change event related to the opening and subsequent expansion of the Rushden Lakes Shopping Centre. Phase One of Rushden Lakes opened on 28 July 2017 and it was subsequently expanded with additional outlets opening on 28 June 2019. As none of the proposals were well founded, the appellants appealed to the tribunal on the grounds that the valuation for their hereditament(s) was not reasonable.

3. It was not necessary for me to read any of the evidence bundles, lodged with the appeals, as I was advised that valuation issues would not be contested before me, as it had been prior agreed that an end allowance of 7½% was appropriate in each case, in the event that I found that Rushden Lakes was in the same locality, as the appeal properties.

4. In each case, the material date was post the date when Rushden Lakes was expanded.

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

Discussion on the preliminary “locality” issue

6. I allowed Mr Hitchens to read out the Valuation Officer’s prepared statement, in which he explained that whilst the respondent respected the two earlier tribunal decisions, in relation to the same material change of circumstances but affecting different towns, they did not accept that Rushden Lakes was in the same locality as the appeal properties before me or those that were before the earlier panels.

7. Having previously read Steven Levy’s decision, following the hearing on 29 May 2024, and the panel’s decision from the subsequent hearing held on 12 June 2024, I quickly came to the conclusion that the locality issue had been correctly decided.

8. In Mr Levy’s written judgment he eloquently analysed the relevant law, the authorities, together with past custom and practice before arriving at his decision on the locality issue. I found Mr Levy’s decision making sound and fully agreed with his reasons for his determination that both Kettering and Corby fell within the same locality as Rushden Lakes. I had therefore no difficulty in endorsing Mr Levy’s decision, which clearly sets out the tribunal’s position on the matter.

9. Following the release of Mr Levy’s written decision, I was somewhat surprised to learn that the respondent had sought to relitigate exactly the same legal arguments before a different

panel, chaired by Dr Penni, on 12 June 2024. That panel, I was pleased to note, robustly dealt with the matter and refused to allow the Respondent's attempt to play one panel off against another to succeed. Dr Penni's panel was dealing with appeals from the Wellingborough area, which was closer than both Kettering and Corby to Rushden Lakes. Dr Penni therefore gave an oral decision, subsequently confirmed in writing, that Wellingborough was in the same locality as Rushden Lakes, to quickly dispose of the preliminary locality issue.

10. As regards these appeals before me, the respondent has quite wisely chosen not to attempt to relitigate the same legal arguments, regarding the locality issue. Had they done so, they would have received similar short shrift from me.

11. The appeal properties in Northampton are around 15 miles from Rushden Lakes and within half an hour's travelling distance by car. Northampton is also closer to Rushden Lakes than Corby. Commonsense therefore dictates the appeal properties, in the cases before me, must be in the same locality. In addition, the fact that the Valuation Officer has accepted that the Rushden Lakes development has had a negative impact upon the hypothetical rental value of the appeal properties, only serves to undermine the respondent's argument that it is outside the locality. As Mr Levy explained locality cannot be defined as to what constitutes a reasonable walking distance from the appeal property. Therefore the respondent's narrow interpretation of what the word locality means in paragraph 2 (7) (d) of Schedule 6 to the Local Government Finance Act 1988 is misconceived and flies in the face of commonsense. Paragraph 2 (7) (d) was as follows;

> matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there,

12. As Mr Levy identified there were two limbs to paragraph 2 (7) (d) above and the respondent's legal arguments aired before him only appeared to address the first limb. Out of town retail parks sometimes have the effect of hollowing out nearby town centres. So, although the retail park may not be visible from the town centre, its negative effects were often physically manifest. These manifestations included reduced pedestrian flow, reduced customer numbers, reduced trade, reduced town centre car park usage and an increase in the number of unoccupied shops. Providing it can be shown that the opening of the retail park, as opposed to a change in economic factors in general, was the root cause of the loss in trade/customers, a reduced assessment can be considered. The extent of the reduction will be evidence driven.

13. Having quickly determined the locality point, I was not required to consider any legal arguments regarding the effective date, which would only have been an issue in the Poundland appeals. Mr Hatchwell informed me that he believed the effective date for the reduced entries should be 28 July 2017. However, he accepted that this issue was previously decided by Mr Levy, in the Kettering appeals, and whilst he did not agree with the decision on this point, he nevertheless respected it and would not pursue the matter before me. I was grateful to him for taking such a pragmatic approach and for respecting the earlier tribunal decision, to save wasting valuable judicial time.

Disposal

14. Having dealt with the preliminary issue, relating to the locality, and found in favour of the appellants, I disposed of the appeals by determining reduced entries, in line with the parties' agreed valuations. The effective date for the reduced assessments was 28 June 2019.

Order

15. In accordance with 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 entries in the rating list with effect from 28 June 2019 as follows:

Unit 37/38 Weston Favell Centre, Northampton £58,500 Rateable Value
265/267 Wellingborough Road, Northampton £40,250 Rateable Value
18/20 The Drapery, Northampton £56,000 Rateable Value
02 Unit 45 Weston Favell Centre £31,500 Rateable Value
12 Abington Street, Northampton £44,750 Rateable Value
68/72 Abington Street, Northampton £93,000 Rateable Value
34 Gold Street, Northampton £132,000 Rateable Value

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

Refund of appeal fees

17. As the grounds of each appeal have been made out the appellants are, in accordance with regulation 13E of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, entitled to refunds of the fees paid fee. Refunds will take approximately six weeks to process.

PRESIDENT

Date issued to parties: 1 July 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.
