

THE VALUATION TRIBUNAL FOR ENGLAND



Non-domestic rating appeal; 2017 rating list; Multi storey car park; Price per parking space; No rental evidence; Appeal allowed in part.

RE: Blackpool Pleasure Beach Main Car Park, Bond Street, Blackpool FY4 1HW

APPEAL NUMBER: CHG100782931

BETWEEN: Blackpool Pleasure Beach Ltd Appellant

And

Amanda Hitchings Respondent
(Valuation Officer)

PANEL: Miss S Ballentine (Presiding Senior Member)
 Mrs A Fielder (Senior Member)

CLERK: Ms R Muller

HEARING: Remote Hearing No. 2 on 14 March 2023

APPEARANCES: Mr K Batty from Kan Batty Chartered Surveyors, the
 representative for the Appellant
 Mr B Slater, the representative for the Respondent

Summary of decision

1. Appeal was allowed in part. The price per car parking space was reduced from the rate of £250 to a rate of £200 at a revised Rateable Value (RV) of £58,800, rounded down to £58,500 with effect from 1 April 2017.

Introduction

2. This was a 2017 rating list appeal. The RV of the subject hereditament was £92,500 with effect from 1 April 2017. The RV was reduced to £73,500 with effect 1 April 2017 following the challenge which was completed on 5 May 2022. The appellant sought a further reduction to £36,750 based on £125 per car parking space.

3. The subject hereditament was a pay and display car park and was the principal car park located at Blackpool Pleasure Beach at the South Pier along the South Shore area of Blackpool. At the time of the challenge there were 294 car parking spaces.
4. Mr Batty appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson* (VO) [2018] UKUT 0253 (LC), Mr Batty declared that he was instructed under a conditional fee arrangement. Mr Batty declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and 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.
5. Mr Slater appeared on behalf of the respondent as both advocate and expert witness.
6. 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).
7. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.
8. The absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Issue

9. The issue the panel had to consider was the correct price to be ascribed to each of the car parking spaces within the subject hereditament.

Evidence and submissions

10. Mr Batty advised the panel that the subject hereditament was operated in conjunction with the opening time of the Blackpool Pleasure Beach theme park. As such, the subject property was only open when the theme park was open, unlike the rest of the car parks within the vicinity that remained open 24 hours a day and seven days a week. Due to the evidence provided, Mr Batty requested that the panel allow the appeal and reduce the value of the car parking spaces from £250 per space to £125 per space and asked the panel to reduce the RV to £36,750 with effect from 1 April 2017.
11. Mr Slater referred to other car parks within the immediate vicinity of the subject hereditament. He stated that there were other car parks closer to the subject hereditament than the ones provided by Mr Batty that had the same rate of £250 per car parking space. Therefore, due to these comparable assessment evidence, he requested that the panel confirm the rate of £250 per car parking space and dismiss the appeal.
12. The day after the hearing, Mr Batty contacted the Tribunal to inform the clerk that although he originally had documents which stated that the rate applied to the car parking spaces within Blackpool Pleasure Beach theme park had been valued at £200, he did not at present have it to hand. However, this value had been referred to in Mr Batty's Challenge submission.

13. Mr Slater was given the opportunity to respond to the Tribunal with regards to Mr Batty's statement above, as he had informed the panel that he had not been involved in settling or dealing with any case on the theme park. However, he had looked on the Valuation Office Agency system and could not find any referral to a value for the car spaces as included / ancillary to the theme park assessment.
14. The panel noted the email correspondence received from Mr Batty and Mr Slater that had been provided after the hearing. The panel was of the opinion that if the car parking spaces within the theme park at Blackpool Pleasure Beach had been incorrect, this would have been raised during the challenge stage. However, at no time during those discussions, had the Valuation Officer disputed the rate of £200 per car parking space provided by Mr Batty. Therefore, the panel accepted the statement by Mr Batty that the car parks within Blackpool Pleasure Beach's theme park had been valued at £200 per car parking space.

Decision and reasons

15. 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. The panel noted that no rental evidence had been provided with regards to either the subject hereditament or the comparable assessment evidence. Therefore, the panel referred to the values applied for the car parking spaces at each of the comparable assessments in order to make its decision.

19. Mr Batty had provided evidence of a car park located within Blackpool Pleasure Beach theme park itself. The panel noted that as the car parking spaces and the theme park were contiguous, therefore, the car parking spaces which totalled 341, were put within the overall assessment of theme park. However, the panel also noted that Mr Batty had stated that the car parking spaces within the theme park had been valued at a rate of £200 per space. Both the car parks of the subject hereditament and the car park located within Blackpool Pleasure Beach theme park had the same restrictions of only being able to be used in conjunction with the opening time of the theme park.
20. Mr Batty provided evidence of comparable assessment evidence of two car parks that were located within the local vicinity. The car park located on Talbot Street had 575 car parking spaces located over five floors, these were assessed at a rate of £125 per car parking space. The car park located on Banks Street was also assessed at a rate of £125 per car parking space and had a total of 246 car parking spaces. However, the panel noted these car parks were located further afield at the North Pier, whereas the subject property was located at the South Pier. Therefore, the panel placed less weight on the values applied to the two comparable car parks located on the North Pier.
21. Mr Slater provided comparable assessment evidence in support of his contention that the subject hereditament had been correctly assessed at a rate of £250 per car parking space. The comparable car parks considered by the panel were Adj Sandcastle (South) (BBC Opp Watson Road, Promenade with a total of 190 car parking spaces. Car Park 603-609, Promenade with a total of 110 car parking spaces and Osborne Road Car Park with a total of 60 car parking spaces. Each of these comparable car parks had been valued at a rate of £250 per car parking space. The panel noted that these comparable car parks were located on the promenade whereas, the subject hereditament was located at the rear of Blackpool Pleasure Beach theme park, which was further away from the seafront than the comparable car parks mentioned by Mr Slater.
22. The panel found the comparable assessment evidence of Lytham Road Car Park valued at £200 per parking space, less helpful as it was a council owned car park. It was noted that no check or challenge case was outstanding. As a council owned car park, it was common for assessments not to be challenged as the income from the non-domestic rates was paid back to the council and was therefore circular income. Mr Slater had also included another car park located on Bond Street, which had been valued at £250 per car parking space. This car park was also operated by Blackpool Pleasure Beach theme park and at this present time, was subject to another challenge by Mr Batty. There had been no mention of any restrictions with regards to this car park, as to whether this it could only be used during the opening times of the theme park. Therefore, the panel placed less weight upon the value of the car spaces within this comparable car park.
23. The panel held that the best comparable evidence it considered was the value of the car parking spaces within the main assessment of Blackpool Pleasure Beach itself. The subject hereditament was located next to the Blackpool Pleasure Beach theme park and had the same restrictions placed upon it as the car park within the theme park itself
24. Based on the evidence before the panel, the panel was not persuaded that the comparable assessment evidence supported a value of £125 per parking space for the subject hereditament. However, it was of the view that a reduction in the rate to £200 per car parking space was warranted for the subject hereditament. This resulted in a revised RV for the subject hereditament to £58,800, rounded down to £58,500.

25. Therefore, the appeal was allowed in part.

26. The appellant is also entitled to a full refund of the fee paid in accordance with regulation 13E(1)(a) of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009 (as amended).

Order

27. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (England) Regulations 2009 [SI 2009 No 2269] that the respondent shall alter the 2017 list in respect of Blackpool Pleasure Beach Main Car Park, Bond Street, Blackpool FY4 1HW, within two weeks, to £58,500 with effect from 1 April 2017.

Date: 13 April 2023

Appeal number: CHG100782931

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.