VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List appeal: Local Government Finance Act 1988; Challenge against Compiled List entry; Shop and premises; Accuracy of Rateable Value; Rental and Comparable evidence considered; found that weight of evidence did not support a reduction in the assessment of subject property; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141. Decision: Dismissed.

APPEAL NUMBER:	CHG100792591	
RE:	BG33A Broadmead Gallery, Broadmead, Bristol BS1 3XB (the "subject property")	
BETWEEN:	Claire's Accessories UK ltd	Appellant
	and	
	(Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	24 May 2024	
BEFORE:	Mrs F Rahman-Cook, Senior Member Mrs FER Duggan, Member	
CLERK:	Ms R Muller	
APPEARANCES:	Mr D Bullimore, Lambert Smith Hampton, Representative for the Appellant Miss C Tasker, representative for the Respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The Tribunal Panel considered that the existing entry in the Rating List for the subject property of Rateable Value (RV) £32,000 was not excessive.

Introduction

3. This was a 2017 Rating List appeal. BG33A Broadmead Gallery, Broadmead, Bristol BS1 3XB (the subject property) had been entered in the 2017 Rating List as ‘Shop and premises’ at an RV of £38,500 with effect from 1 April 2017.

4. The Challenge proposal was submitted by Lambert Smith Hampton on behalf of Claire Accessories and was received by the Valuation Officer (VO) on 5 April 2022. It had been made on the grounds that the RV shown in the Rating List on 1 April 2017 was incorrect. A revised RV of £13,750 was proposed with effect from 1 April 2017.

5. The VO issued a Challenge case decision notice on 12 September 2022, where the Zone A price of £600 per m² was reduced to £500 per m². This amended the RV of the subject property to £32,000 with effect from 1 April 2017.

6. Mr D Bullimore, the appellant’s representative revised his proposed RV to £20,000 which consisted of an amended Zone A value of £213 per m².

7. 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 11 January 2023.

8. Mr Bullimore 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 Bullimore’s declaration of truth included a statement that he was instructed on a conditional fee arrangement. He 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.

9. Miss Tasker, the representative for the respondent appeared as both advocate and expert witness.

10. The panel accepted the 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). The panel therefore considered the expert evidence and attached such weight to it as it saw fit.

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

Background

12. The subject property comprised a retail unit situated at Broadmead Gallery SC in Bristol. The survey details and area of the subject property of 89.42 m² or 64.40 m² ITZA is agreed by the parties. The appellant, Claires Accessories have been in occupation of the subject property since 1998.

Preliminary issue

13. The appeal had been adjourned from a previous hearing due to inclusion of three emails by Mr Bullimore. Miss Tasker stated that the difference in rent between parties was circa £10,000, but this was considered to be a turnover rent. Therefore, she did not have any objections to the inclusion of these emails. The panel adjourned to discuss the matter. As both parties were happy to proceed with the hearing and to include the contents of the emails, the panel held it could proceed with the hearing without any intervention.

Relevant Law

Legislation

14. 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 three assumptions.”

15. 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).

16. 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.

Case Law

17. Both parties had referred to *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141. 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.

Discussion

18. The panel was informed that the rental history of the subject property was subject to fluctuations with regards to the rental figures. It noted the following:

    a) 1998 – passing rent of £81,000 per annum; 15 year lease; rent reviews at five and 10 years.
    b) 2003 – no details had been provided
    c) 2008 – passing rent of £89,000 per annum; rent review
    d) 2013 – passing rent of £15,000 per annum; three year lease from March 2013; tenant break option after March 2014
    e) 2016 – passing rent of £35,000 per annum; 10 year lease from March 2016; five year rent review and tenant break option
    f) 2021 – passing rent of £20,000 per annum; three year lease from May 2021

19. Mr Bullimore stated that the rent had been reviewed in March 2013 and had substantial dropped from £89,000 per annum to £15,000 per annum. He informed the panel that it should be the rent review in March 2013 that it should consider. Mr Bullimore also stated that when considering the rents in 2013 and in 2016, he was of the opinion that the passing rent, if a lease had been renewed in 2015 would have been circa £20,000.

20. Mr Bullimore did not know why the rental figures had changed so dramatically over the years. He assumed it might have been due to voids in the shopping centre, but this was just his opinion. Mr Bullimore did state that the rent renewal figure for 2016 was not considered as turnover, as he could not see anything within the lease details to confirm this. Due to the significant differences in the rental figures over the years, the panel did not place much weight on the details. However, it did take into consideration the rental figure from the 2016 rent review, as this was nearer the AVD of 1 April 2015 than the rent review that had taken place in 2013.

21. Mr Bullimore informed the panel that there were not many settlements within the shopping centre, however, there were some settlements on the larger units of which details were provided. The panel noted that the larger units had total areas of between 640m² and 1,546 m². Therefore, the panel placed little weight on the details of these settlements.

22. Miss Tasker stated she had been passed the case post discussion, but she had inspected the subject property. The VO had considered *Lotus and Delta* when it had reduced the Zone A base price from £600 to £500.

23. Both parties had referred to the rental comparable properties details. The panel only considered the comparable properties that had new lettings around the AVD of 1 April 2015.

    a) BG3 and BG4 Broadmead Gallery had a 15 year lease with a 5 year rent review with a tenant break option. There was a £200,000 case incentive and with a 12 months' rent free period. The base rent for BG3 was £22,500 per annum from May 2016 with a Zone A price of £600 per m² with an RV of £42,750. The rent was for a shell unit. Works had been required as a condition of the tenancy with £175,000 for fit out. BG4 Broadmead Gallery's base rent was £36,000 per annum from May 2016 with a Zone A price of £600 per m². This rent included another property. Miss Tasker stated that this property had a capital contribution of £200,000. The current price per m² for this property was £600 Zone A with an RV of £45,000.

    b) Mr Bullimore had analysed the rent as follows: He included a nil rent for a period of nine months for both BG3 and BG4. With regards to BG3, the rent considered was £22,500 for a period of 4.25 years. With regards to BG4, the rent of £15,000 for a period of 1.5 years, £22,500 for one year and £30,000 for a period of two years had been used. £200,000 capital contribution and the fitting out cost of £175,000 had both been considered over 15 years at 6.5%. Therefore, the analysed rent in his opinion for BG3 supported a value of £105.24 per m² Zone A and the analysed rent for BG4 supported a value of £82.22 per m² Zone A.

    c) Mr Bullimore had also provided another analysis of the rent for BG4, where the base rent had been £36,000. This rent had included the other property of BG3. His analysis of this rent produced a value of £178.42 per m² Zone A.

        (a) Although the panel could understand why Mr Bullimore had analysed the rent for BG3 and BG4 as detailed above, the panel found that as the rental figures required considerable adjustment, it placed little weight on the details provided by both parties.

d) BG24 Broadmead Gallery had a 10 year lease with five year rent reviews and with break option. There was a £40,000 capital incentive. The headline rent was £50,000 per annum from November 2015 with a Zone A price of £600. Mr Bullimore had analysed the rent to be £422 per m² Zone A. This rent was not for a shell unit. Further details had been provided of an earlier new lease which had commenced in 2013.

(a) The panel applied more weight to the details of this comparable property. In particular, the rental details from November 2015, as it was closer to the AVD. It was similar in size at £86.72m² ITZA and the new lease had commenced only seven months post AVD of 1 April 2015.

e) BG22 Broadmead Gallery had a five year lease with a six month rent free period. The headline rent was £40,000 per annum from August 2016 with a Zone A price of £318 per m². Three months had been disregarded for fit out at £49,472. There had also been a capital contribution of £35,540.

(a) The rent on this property had required a number of adjustments, therefore, less weight was placed on the details of this property by the panel.

f) BG7a Broadmead Gallery was much smaller in size with an area of 23.20m² ITZA. This was a new letting from 1 December 2015 for a period of 10 years with a rent review at five years. It had a rent free period of seven months. Three months was also disregarded for fit out of £56,667, as the rent of £17,000 had been for a shell unit. The Landlord was also responsible for external repairs and insurance.

(a) The panel held that too many adjustments would have to be made, so placed little weight on the details of this comparable property.

24. The panel considered further assessment evidence, which showed other units located on Broadmead Gallery. There were in total 27 units, all but one had entered the 2017 Rating List as ‘shops and premises’ located at Broadmead Gallery of which all but four of the units had been valued at £600 per m² Zone A. The remaining properties were valued between £55 per m² Zone A and £250 per m² Zone A. The premises which had a value of £55 per m² was describe in the Rating List as Soft Play Centre and premises. Therefore, not a true comparable.

Disposal

25. In view of the above findings and conclusions, the panel having considered the evidence from both parties, the panel concluded that the revised assessment of £500 per m² Zone A by the respondent was considered to be fair and reasonable. The appeal was therefore dismissed.

Date issued to parties: 14 June 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.