THE VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; Local Government Finance Act 1988; shop and premises; Lotus and Delta v Culverwell (VO) & Leicester City Council [1976] RA 141; tone of the rating list in the locality; property disadvantages; appeal allowed in part.

APPEAL NUMBER: CHG100795056

BETWEEN:	Wykeland Limited	Appellant
and	Jo Moore (Valuation Officer)	Respondent

RE: 51 Whitefriargate, Hull HU1 2HP ("the subject property")

PANEL: Mr P Blythe-Bartram (Presiding Senior Member)
Mr M H Smith (Senior Member)

CLERK: Mrs A Sloan

SITTING ON: 1 November 2023 (remote hearing no.2)

APPEARANCES: Mr R Ellis of CBRE (for the appellant)
Mr P Duffield (Valuation Officer's representative)

Summary of decision

1. Appeal allowed in part. The panel reduced the rateable value (RV) to £179,000 from 1 April 2017.

Introduction

2. The appellant had made a challenge against the accuracy of the assessment in the 2017 Rating List, by way of a proposal served on the Valuation Officer (VO) on 12 April 2022. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was partially well founded and altered the existing assessment of £277,500 RV to £189,000 RV. A decision notice to that effect was served on the appellant on 11 April 2023 and this decision was appealed to the Tribunal on 1 June 2023, on the grounds that the current valuation for the hereditament was not reasonable.

3. The subject property is a large retail unit in Hull city centre, built in the early 1900s, with accommodation over two floors. The appellant contended that either the non-retail first floor

should be valued at a lower rate than the ground floor or the whole property should be valued on a lower tone when compared to other similar shops in the locality. To assist the Tribunal, the parties had agreed all basic facts and the only issue to be decided was the correct unit price for the property.

4. Mr Duffield was appearing as advocate and expert witness for the VO. Mr Ellis also appeared before the panel in a dual capacity as both advocate and expert witness for the appellant. He confirmed that his firm was not instructed on a success related fee but a fixed fee basis.

5. The hearing was conducted remotely, via Microsoft Teams. The Presiding Senior Member had a problem with his camera freezing part way through the hearing and proceedings were paused for him to disconnect and re-join the hearing. He confirmed that he was able to hear the submissions despite his frozen screen and the panel was satisfied that this minor technical issue did not impact its ability to hear the case. Permission was also granted for Mr Ellis to share documentation on screen during the hearing. This documentation included a map that was in the evidence bundle but updated with annotations. Reference was also made to an alteration to the rating list on one of the comparable properties, which had occurred since the Challenge decision was issued. Mr Duffield confirmed he had no objections to any of these matters.

6. This document is not intended as a verbatim report of the proceedings, nor does it purport to reproduce in full all the parties' evidence.

Issue

7. The issue in dispute before the panel was the correct tone of value to be applied to the subject property. Mr Duffield defended the existing entry at £189,000 RV, based on an overall unit price of £58/m^2. Mr Ellis submitted that £136,000 RV was fair and reasonable and provided two different valuations in support of this. Firstly, a valuation of the ground floor at £55/m^2 and the first floor at £27.50/m^2, to reflect its disadvantages. Alternatively, he submitted a valuation using one unit price of £41.54/m^2 overall, to arrive at the same RV.

Decision and reasons

8. The material date on which to consider the property was 1 April 2017, as this appeal was a challenge to the compiled list entry. The value must be considered as at the antecedent valuation date (AVD) of 1 April 2015.

9. Mr Ellis submitted that the subject property suffered from disadvantages when compared to similar large shops in the area. He explained that the first floor was only accessible via an internal staircase or goods lifts at the very back of the unit. Historically it was used for storage and staff accommodation but was not suitable for retail use. The first floor was similar in size to the ground floor and Mr Ellis contended that most retailers do not need that amount of storage and the appellant ratepayer had found it difficult to let the subject property. He referred the panel to the rent agreed on the subject property from 2 January 2022 at £10,000 per annum. Although accepting this was far removed from the AVD, he submitted that this demonstrated the lack of demand for this unit compared to 40 Whitefriargate. 40 Whitefriargate, also owned by the appellant company, had been let from April 2021 for £106,830 per annum for the ground floor only.

10. The panel found that the starting point must be the rent passing on the subject property, in accordance with *Lotus and Delta v Culverwell (VO) & Leicester City Council* [1976] RA 141, mentioned by both parties in their written submissions. However, it found that the rent from 2022 was too far removed from the AVD to be of assistance. The panel therefore considered the comparable properties presented by the parties.

11. In support of his valuation at a lower price per m^2 for the first floor, Mr Ellis referred the panel to 77-83 Queensway in Stevenage, where the upper floor of the unit had been valued at 10% of the ground floor rate. Mr Duffield submitted that large retail units were usually valued overall to one unit price and the Stevenage case was an exception because the upper floor was affected by asbestos. The panel found that there was no evidence before it of a large retail unit being valued using different amounts for separate floors in Hull city centre, and Stevenage was a different locality entirely. Whilst it accepted the Stevenage property demonstrated a precedent, it was satisfied that the approach adopted there reflected the particular disadvantages at that property. It was not persuaded that the subject property's disadvantages were as severe and therefore found it should be valued overall on one unit price.

12. Having made that finding, the panel turned to the issue of the unit price to be applied to the subject property. Mr Ellis contended that the best comparable property was 40 Whitefriargate. This unit is located in the same parade as the subject property but much larger at 5,502.6m^2. The subject property measures 3,271.10m^2. The subject property was originally valued for the 2017 list at £85/m^2 and unit 40 at £80/m^2, to reflect its larger size. A proposal on unit 40 resulted in a reduction to £55/m^2 and the subject property for this appeal had been reduced following the proposal to £58/m^2. The panel was familiar with the concept of quantum mentioned by the parties, meaning larger units are often valued at a lower price than smaller shops.

13. Mr Ellis contended that, when unit 40 was split into two separate hereditaments, the ground floor (measuring 2,722m^2) was still valued at £55/m^2, despite the reduced size. He submitted that the subject property is now the larger of the two units and should be valued to a lower unit price. Mr Duffield stated that in Whitefriargate all shops over 1,500m^2 were valued on an overall basis, so the size, once above that threshold, did not have a significant difference in value.

14. Mr Duffield relied upon other large shop units in Hull, in the Prospect Centre and King Edward Street, to support the existing valuation for the subject property. He considered the most comparable examples to be the former Wilkinson Hardware store in the Prospect Centre and 59-71 King Edward Street, formerly occupied by Poundworld. The former measures 3,794.70m^2 and is valued at £75/m^2. The latter measures 2,928.22m^2 and is valued at £63.25/m^2. Mr Duffield submitted that these shops both have more than one floor in the assessment, but both have only one trading area on the ground floor. He contended that the lower rate of £58/m^2 applied to the subject property already reflects its disadvantages and location. Mr Ellis was of the opinion that these shops are in a more valuable location than the subject property and benefit from wide frontages to attract customers, compared to the subject property which has a narrow frontage and widens out toward the rear of the unit.

15. The panel placed little weight on the Zone A prices cited by Mr Ellis on his annotated map of the area. Whilst it noted that the rate reduces the further east the shops are along Whitefriargate, the panel found that it was not of assistance to compare smaller zoned retail units with much larger retail shops. It found that the best comparable was 40 Whitefriargate as it was in the same trading location as the subject property. Although Mr Duffield's

examples were useful to illustrate the values applied to similar sized units with a sole trading floor, they were in more valuable locations. The panel also noted that the Prospect Centre and King Edward Street properties were more modern when compared to the early 1900s construction of the subject property and unit 40.

16. After considering the evidence from both parties the panel found that the subject property was disadvantaged in comparison to the VO's examples. It is older, with a narrow frontage, around half of the space is upstairs with no customer access and only accessible by stairs or goods lifts at the far end of the unit. It accepted that it is unlikely that there is demand for such large storage areas amongst retailers, reflected in the 2022 rent achieved. Mr Ellis had demonstrated that the subject property's limited access to the first floor means it cannot easily be split and occupied separately, as was the case with unit 40. On balance, the panel was persuaded that the rate of £58/m^2 was not reasonable for the subject property, when compared to unit 40.

17. Mr Ellis had submitted an overall valuation at £41.54/m^2 for the subject property. However, the panel found that it had been presented with no evidence of a similar sized shop in Hull at such a rate. Whilst it was satisfied that the subject property's location and layout was less valuable than the VO's comparable properties in Prospect Centre and King Edward Street, it was not persuaded that such a reduction was justified. The panel concluded that a unit price of £55/m^2, the same as unit 40, was reasonable as this was lower than the shops in a more desirable location but comparable with the very similar nearby unit. The appeal was therefore allowed in part.

Floor	Description	Area m^2	£ per m^2	Value (£)
Ground	All main areas	1,696.90	55.00	93,330
First	All main areas	1,574.20	55.00	86,581
	Total:	3,271.10		179,911
			Say	179,000

Order

18. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to amend the entry for 51 Whitefriargate, Hull HU1 2HP in the 2017 Rating List to £179,000 effective from 1 April 2017. The Valuation Officer must comply with this Order within two weeks of its making.

Refund of appeal fee

19. 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 (Alteration of Lists and Appeals) (England) Regulations 2009 (as amended). This will be arranged by the Tribunal administrative office as soon as possible.

Date: 14 November 2023 **Appeal number:** CHG100795056

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.