

THE VALUATION TRIBUNAL FOR ENGLAND



Non-Domestic Rating Appeal; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Shop and premises; zone A value; appeal dismissed.

RE: 459 Grimsby Road, Cleethorpes, Lincolnshire DN35 8AJ

APPEAL NUMBER: CHG100802972

BETWEEN:	Matt Sargent Ltd	Appellant
	and	
	Ms J Moore (Valuation Officer)	Respondent

PANEL: Mr S Chappell (Presiding Senior Member)
Dr T Webb (Senior Member)

CLERK: Mr R Gath IRRV Hons

REMOTE HEARING on 22 January 2024

APPEARANCES: Mr H Winterbottom from Business Rates Hub Ltd (Appellant's representative);
Mr A Gausden (Valuation Officer's representative)

Summary of decision

1. Appeal dismissed. The panel concluded that the existing Zone A rate of £185/m² and the rateable value (RV) of £27,750 was correct.

Introduction

2. The appellant had made a challenge against the accuracy of the compiled list assessment in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 6 May 2022. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 2 March 2023 and his representatives then appealed the VO's decision to the Tribunal on 4 July 2023 on the grounds that the current valuation for the hereditament was still not reasonable, under Regulation 13A

of the Non-Domestic Rating (Alterations of Lists and Appeals) (England) Regulations 2009.

3. The appeal property was a shop and premises. It had an agreed area of 426.20m², 156.05m² in terms of zone A (ITZA).
4. Mr Winterbottom appeared on behalf of the appellant as both advocate and expert witness and declared that he was employed on a success fee basis. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Winterbottom's declaration of truth included a statement that he understood and accepted that his duty is to the Tribunal in giving his evidence and he will comply with this as well as the requirements of his professional body regardless of whether or not the evidence supports his client's case.
5. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is 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).
6. Mr Gausden confirmed that he was representing the VO as advocate and expert witness.
7. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

8. The issue in dispute before the panel was the correct zone A value to be applied to the appeal property. Mr Winterbottom had sought a reduced entry of £23,000 RV based on a Zone A value of £148/m². Mr Gausden defended the VO's existing assessment of £27,750 based on a Zone A value of £185/m².

Evidence and submissions

9. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included rental evidence for the appeal property and the VO's comparable properties, photographs of the appeal property, a location plan and their skeleton arguments.

Decision and reasons

10. In the case under consideration, the panel had analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA141. The rent on the subject property is considered to be the correct starting point but, where available, rents on similar properties are also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence can then be weighted.

11. The starting point for consideration was the actual rent passing on the appeal property. A lease for the appeal property was entered into in 2014 at a rent of £17,400. The appellant's lease commenced in 2018 at a rent of £12,000. The panel therefore considered that the rent was unreliable as it was too far from the antecedent valuation date (AVD) to be reliable. Furthermore, the panel considered that the 2014 lease was unreliable as it required too much adjustment being a stepped rent and the occupier was given one year rent free. However, it did test these rents against the VO's basket of rental evidence.
12. As the panel considered that the rent for the appeal property was unreliable it considered the other rents in the locality. Whilst most of the leases commenced too far from the AVD to be reliable, the panel noted that the lease for 487-489 Grimsby Road commenced in October 2016 at a rent of £6,500 which the VO analysed to £206.92/m², although it had a total area of 42.34m² and was significantly smaller than the appeal property. 483-485 Grimsby Road was let at a rent of £18,000 effective from 8 September 2013 which the VO analysed to £210.25/m². This property had a total area of 137.60m² and was 1/3 of the size of the appeal property.
13. As these two rents were greater, in proportion to the size of the properties, than the rent for the appeal property, this further cast doubt on the reliability of the rent for the appeal property.
14. Having applied little weight to the rent for the appeal property, the panel examined the tonal evidence presented by Mr Gausden. This examination of the tonal evidence demonstrated that the tone for properties in the locality at a zone A rate of £185m² had been established.
15. Turning to Mr Winterbottom's argument, the panel applied less weight to his argument that other properties within the locality were valued less. This was because the panel took account of Mr Gausden's contention that the RVs had been reduced by allowances due to disabilities to the properties, such as masking or having walls within the units as they had been merged from neighbouring properties.
16. Although Mr Winterbottom also submitted that the appeal property should benefit from a 20% quantum allowance for its size, the panel was not persuaded by this argument as Mr Winterbottom did not produce any evidence to demonstrate that properties the size of the appeal property should be given a quantum allowance or how he arrived at 20%.
17. On the evidence presented, the panel concluded that weight of evidence suggested that the zone A rate of £185/m² and the resultant rateable value of £27,750 was not excessive. The panel dismissed the appeal.

Date: 19 February 2024

Appeal number: CHG100802972

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.