THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 rating list; Challenge against Compiled List entry; Bank 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.*

RE: Nationwide,10-11 Commercial Street, Hereford, HR1 2DB
APPEAL NUMBER: CHG100828657

BETWEEN:	Nationwide Building Society (Represented by Lambert Smith Hampton)	Appellant
	and	
	Alexandra Morley (Valuation Officer)	Respondent

PANEL: Mr P Blythe-Bartram (Senior Member)
Mrs C Parkes (Member)

REMOTE HEARING: 5 December 2023
CLERK: Mr J N Massey

APPEARANCES: Mr D Bullimore of Lambert Smith Hampton for the Appellant.
Ms C Porteous for the Valuation Officer.

Summary of decision

1. Appeal dismissed. The panel considered that the existing entry in the Rating List for the appeal property of Rateable Value (RV) £45,500 was not excessive.

Introduction

2. This was a 2017 Rating List appeal. Nationwide,10-11 Commercial Street, Hereford, HR1 2DB ("the subject property") had been entered in the 2017 rating list as 'Shop and Premises' at a RV of £47,000 with effect from 1 April 2017.

3. The challenge proposal was submitted by Lambert Smith Hampton on behalf of Nationwide Building Society and was received by the Valuation Officer on 15 July 2022. It had been made

on the grounds that the RV shown in the rating list on 1 April 2017 was wrong. A revised RV of £36,000 was proposed with effect from 1 April 2017.

4. The Valuation Officer issued a challenge case decision notice on 21 February 2023, which stated that based upon the evidence and information available, the current zone A price of £560 per m^2 was not reasonable and amended the rating list entry to RV £45,500 with effect from 1 April 2017 to reflect a reduced zone A price of £540 per m^2.

5. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal was made on 21 June 2023 to this Tribunal on the grounds that the valuation for the hereditament is not reasonable.

6. The appeal hereditament comprises a three storey retail building society unit on Commercial Street, Hereford with total area of 223.84m^2. The retail customer space is on the ground floor, with offices on the first floor and staff facilities on the second floor. It is owned and occupied by Nationwide Building Society and is a traditional build consisting of brick walls under a slate roof, originally built between 1900 and 1918, and refurbished in 2002.

7. Mr Bullimore appeared on behalf of the appellant as both surveyor-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 statement of truth included a statement that he was instructed on a conditional fee basis. 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 the evidence supported the client's case.

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

9. Ms Porteous appeared on behalf of the respondent as both advocate and expert witness. Her declaration of truth included a statement that she was not instructed under any conditional fee arrangement and that she understood and accepted that her duty was to the Tribunal in giving her evidence and she would comply with this as well as the requirements of her professional body regardless of whether the evidence supported the respondent's case.

10. This tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

11. The issue between the parties concerned the RV of the appeal property and specifically, the zone A rate per m^2 that should apply. Mr Bullimore, for the appellant, was seeking a reduction to RV £36,000 based on a zone A rate of £425 per m^2. Ms Porteous, for the VO, sought to defend the amended RV of £45,500 which was based on a zone A rate of £540 per m^2.

Evidence and submissions

12. The evidence bundle comprised all of the documents exchanged between the parties as part of the challenge process: Challenge submission and supporting evidence including photographs, plans and maps of the subject property and comparable properties, the Valuation Officer's initial response to the challenge and challenge case decision notice; and the appellant's submission containing a summary of evidence.

Decision and reasons

13. 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 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".

14. 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).

15. 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 17 August 2017.

16. Both parties had referred *to Lotus and Delta v Culverwell*. 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.

17. The panel noted that the subject property is owned and occupied by Nationwide Building Society and as such there was no rental evidence pertaining to the subject property itself.

18. Mr Bullimore referred to the rents and assessment on retail units on Commercial Street. He described a fall in rents agreed as one travelled along the street away from Market Square and stated that this was reflected in the assessments which fell from £800 per m^2 to £400 per

m^2. He had provided a plan of the street showing values attributed to shops along the street, and considered this illustrated that on the same side of the street as the subject property, shops had been valued at £800 per m^2 up to 6A Commercial Street, after crossing Gormand Street one arrived at 7 Commercial Street which was assessed at £700 per m^2 and values then decreased in that parade of shops until one reached 14 Commercial Street, which was assessed at £425 per m^2. Taking these values into account, he considered that the subject property, which was located in the middle of the parade, had been excessively valued at £540 per m^2.

19. The appellant considered that the settlements on Commercial Street indicated there had been a substantial drop in values between the 2010 and 2017 Rating Lists, which supported a reduction to £425 per m^2 for the appeal property. The panel noted that Mr Bullimore had not referred to any specific settlements, however the respondent stated during the challenge that the only challenge on the street which resulted in a reduction was for 57 Commercial Street, which had been reduced from £800 per m^2 to £650 per m^2. This property was situated opposite the appeal property and slightly closer to Market Square, and the panel did not consider its reduced rate indicated that £540 per m^2 was excessive for the subject property.

20. On examining the rental evidence provided by the respondent, the panel considered that rents agreed on shops located in the same parade as the subject property held the most weight.

    - 7 Commercial Street – new letting agreed 5 June 2015, rent of £83,850 per annum (pa) analysed to £956.99 per m^2 by the respondent. The appellant had included a six month rent free period and analysed the rent to £774 per m^2. It is currently assessed at £700 per m^2.

    - 8 Commercial Street – new letting agreed 1 September 2014, rent of £27,000 pa analysed to £599.50 per m^2. It is currently assessed at £560 per m^2.

    - 12-13 Commercial Street – rent review 14 October 2013, rent of £80,000 pa analysed to £560.89 per m^2. It is currently assessed at £500 per m^2.

21. The panel noted that these rents, agreed close to the AVD, had analysed to zone A values in excess of that currently applied to the subject property. It therefore concluded that the zone A rate of £540.00 per m^2 adopted by the respondent was supported by the basket of rental evidence and was fair and reasonable.

22. In appeals of this nature the burden of proof rested on the appellant's representative to prove his case for a reduction. However, in the case before it, the panel concluded that he had failed to produce sufficient evidence to justify his claim that the current zone A rate of £540 per m^2 applied to the subject property was excessive. Consequently, the panel was satisfied that the grounds for the appeal were not substantiated, and the appeal was dismissed.

Date: 2 January 2024
Appeal number: CHG100828657

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.