THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 rating list appeals; Local Government Finance Act 1988; Lotus and Delta v Culverwell (VO) and Leicester City Council [1976] RA 141; Rental evidence; Comparable assessments; Appeal part allowed.

RE: 23 Fore Street, St Austell, Cornwall PL25 5PS

APPEAL NUMBER: CHG100921150

BETWEEN:	Poundland	Appellant
	and	
	Alexandra Morley (Valuation Officer)	Respondent
BEFORE:	Dr Thomas Webb	(Chair and Senior Member)
	Miss Kiera Riddy	(Senior Member)
CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 4:	11 December 2023	
PARTIES PRESENT:	Mr Daniel Johnstone of Colliers	Appellant's representative
	Mr David Walker	Respondent's representative

Summary of decision

1. Appeal part allowed. The Rateable Value (RV) of the appeal property was reduced to £94,000 with effect from 1 April 2017.

Introduction

2. This appeal had been brought in respect of the following: the appellant was the non-domestic rates payer of the appeal property at 23 Fore Street, St Austell, Cornwall PL25 5PS.

3. The appeal property was a large two storey retail unit in the centre of St Austell dating from the 1970's. When it entered the rating list it was valued on a zoned retail basis of £390/m^2

with a survey unit allowance of -7.5% for quantum. There were also some line adjustments for masking and for inferior quality on the upper floor.

4. The original RV of the property was £102,000 and the appellant had proposed that it was over-assessed and should have been assessed on a rate of £320.00/m^2 instead of £390.00/m^2 thereby reducing the RV to £83,500 with effect from 1 April 2017.

5. The valuation officer (VO) considered that the rating list entry was unreasonable based on the evidence and information available but disagreed with the proposed alteration of the list and the appellant appealed to the tribunal. The VO reduced the RV to £98,000 based on a rate of £375/m^2.

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

7. This appeal was considered at the same hearing as appeal number CHG100773920 in respect of 27 Fore Street, St Austell. A separate decision has been made in respect of that appeal.

Issue

8. The Zone A rate of the appeal property.

Evidence and submissions

9. The bundles comprised all of the documents exchanged between the parties as part of the challenge process including the VO's case decision notice, assessment summaries and the appellant's challenge submission.

10. The appellant's representative had submitted further new evidence in respect of the case on 19 September 2023. Unfortunately, the wrong appeal reference number was quoted and this resulted in the late consideration of the evidence by the chairman of the panel.

11. Mr Johnstone stated that since lodging the challenge he had been made aware of two rental agreements.

    36 Fore Street – This was a five-year lease renewal from 1 January 2016 for a rent of £34,750 per annum (pa) with a rent commencement date of 24 June 2017, equivalent to a 17 months' rent-free period. He had analysed the rent of £24,904 pa to a rate of £281/m^2 Zone A.

    39 Fore Street – A ten-year lease renewal from 29 September 2016 for a rent of £18,850 pa that he had analysed to a rate of £288/m^2 Zone A.

12. In his opinion, these rents were key to the tribunal having all the relevant rental evidence available to it to be able to come to a fair conclusion.

13. In the light of this new evidence, he submitted a new evidence table and sought a revised Zone A rate of £275/m^2 (after the 7.5% reduction) giving an RV of £78,500. He had highlighted the rents for the properties at 3, 19-21, 38 and 27 as significant but that for number 38 as near perfect as it was agreed close to the AVD. Including the six-months' rent free period he had calculated a revised analysis of £276/m^2 for 38 Fore Street.

Number	Occupier	Rent £/m^2 Zone A	Date	Comments
32	Newells	£398	Apr – 14	Outlier
3, 19-21	Tanya’s	£296	Feb – 15	
38	TUI	£276	Apr – 15	
27	The Works	£321	Dec – 15	
36	Santander	£281	Jan – 16	
39	Specsavers	£288	Sep - 16	

14. The chair of the tribunal approved the inclusion of the new evidence on 29 November 2023.

15. The respondent’s representative had submitted that the best evidence should come from the rent on the appeal property. The rent had been agreed on 14 May 2010 and so was nearly five years prior to the valuation date of 1 April 2015. It devalued to £592.75/m^2 but this was well in excess of the zone A rate for properties in the valuation scheme in Fore Street.

16. In comparison, there had been a lease renewal on 27 Fore Street on 1 December 2015 that provided better evidence as it was only nine months after the valuation date. He had devalued this to £337.77/m^2, after adjusting for a 6-month rent free period over five years. As this was a renewal, it carried less weight than an open market lease and therefore he reduced the rate on 27 Fore Street and subsequently on 23 Fore Street to £375/m^2, a value less than £390/m^2 but more than £337.77/m^2 which he felt was reasonable.

17. The 7.5% survey end allowance on the appeal property effectively reduced the Zone A rate to £346.87/m^2, a value appropriate for one of the larger buildings in the area. Overall, this reduced the RV on the appeal property to £98,000.

18. The reduction was further supported by a basket of evidence he had submitted of rental agreements and their devalued rental analyses on other properties on Fore Street.

19. In his opinion, the best comparable was that of 32 Fore Street whose RV was based on a rate of £390/m^2. This property was opposite to 23 Fore Street and like 23 Fore Street was in the same prime location in the most valuable retail part of St Austell.

20. In respect of the appellant representatives’ rental comparisons, he stated that 3, 19-21 Fore Street were already currently based on a rate of £350/m^2 and 38 and 27 Fore Street were not as useful as comparables as 32 Fore Street.

21. In respect of 36 Fore Street, he stated that a 17 months rent free period was too long a period of time for it to be part of the normal rating hypothesis and this meant that it was not a clean rent. Therefore, it was not as useful as other comparators.

22. For these reasons, he therefore asked the tribunal to dismiss the appeal and confirm the RV of £98,000 with effect from 1 April 2017.

Decision and reasons

23. The panel referred to the Local Government Finance Act 1988 in respect of the definition of rateable value in paragraph 2(1), Schedule 6 to the Act (as amended). 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.

24. The material day for this appeal was 1 April 2017.

25. The panel referred to the hierarchy of rental evidence that should be used to determine the RV of the appeal property as detailed in the authoritative and binding Lands Tribunal judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. This case had established six propositions giving clear guidance to be followed when assessing rateable value, namely:

    (1) Where the hereditament which is the subject of consideration is actually let that rent should be taken as the starting point.

    (2) The more closely the circumstances under which the rent is agreed both as to time, subject matter and conditions relate to the statutory requirements contained in the definition of Gross Value in s.19(6) of the General Rate Act 1967 the more weight should be attached to it.

    (3) Where rents of similar properties are available they too are to be properly looked at through the eye of the valuer in order to confirm or otherwise the level of value indicated by the actual rent of the subject property.

    (4) Assessments of other comparable properties are relevant. When a valuation list is prepared these assessments are to be taken as indicating comparative values estimated by the Valuation Officer. In subsequent proceedings on that list therefore they can properly be referred to as giving an indication of that opinion.

    (5) In light of all the evidence an opinion can then be formed of the value of the appeal hereditament, the weight to be attributed to the differing types of evidence depending on the one hand on the nature of the actual rent and, on the other hand, on the degree of comparability found in other properties.

    (6) In those cases where there are no rents available of comparable properties a review of other assessments may be helpful but in such circumstances it would be clearly more difficult to reject the evidence of the actual rent.

26. The panel noted that both parties had stated that the best evidence should be the rent on the subject property, however, as it was agreed nearly five years prior to the AVD, it did not provide the best evidence for the valuation of the appeal property at the AVD. The panel found that little weight could therefore be given to this evidence.

27. The panel was presented with a table of properties in Fore Street and details of their rental agreements and found it helpful to refer to the Goad plan of Fore Street submitted by the appellant’s representative. It was not dated but it provided sufficient detail of the locations of the comparable properties to the appeal property.

28. Only two new rent agreements were submitted. 2 Fore Street was agreed on 1 January 2015 and 12A /12B Fore Street was agreed 25 March 2015 both of which were very close to the AVD. For both properties, the rent analysed to £240/m^2, a value considerably lower than any in the close vicinity of the appeal property. The panel found that both properties were too far

away from the appeal property to be useful comparators for what had generally been agreed to be the prime location in Fore Street i.e. around where the appeal property was located.

29. The panel referred to the analysed rents for 14 Fore Street of £240/m^2 and that of 16 Fore Street adjacent to it of £390/m^2 showing clear differences in their valuations despite the facts that both of these rents were rent reviews and only three and five months after the AVD. The panel found such differences reflected the fact that the properties closer to the appeal property would have been considered more attractive to the prospective hypothetical tenant at the AVD.

30. The panel found that the evidence in respect of 27, 32 and 38 Fore Street showed that these properties were in the best location and that value decreased the further one went from that location. 23 Fore Street was in the vicinity and the panel found that the valuation of the VO at £375/m^2 was too high whilst there had been little evidence presented to show that the zone A rate should be significantly reduced to less than £340/m^2.

31. The panel also had regard to the rating assessments of other properties in the locality. While appreciating the rating list was at an end and there was a lack of appeals, the panel also noted there were a lack of settled cases so little regard was given to comparable assessments.

32. In conclusion, having regard to the most relevant rental evidence, the panel found that £360/m^2 would be the most appropriate and reasonable value for the zone A rate for the appeal property as this would best reflect its location and size. Applying the new rate to the same relativities in the existing valuation resulted in the following revised assessment:

Description	**Area m²/unit**	**£ per m²/unit**	
Ground floor retail zone a	91.0	£333.00	£30,303
Ground floor retail zone b	97.2	£166.50	£16,184
Ground floor retail zone c	99.2	£83.25	£8,258
Ground floor remaining retail zone	387.2	£41.63	£16,119
Ground floor remaining retail zone	558.0	£39.54	£22,063
First floor office	50.1	£19.77	£990
First floor office	9.4	£19.77	£186
First floor office	18.5	£19.77	£366
Staff toilets	0	£0.00	£0
Total	1310.6		£94,469
		Rateable Value	rounded **£94,000**

33. The appeal was therefore part allowed and the RV was reduced to £94,000 with effect from 1 April 2017.

Order

34. The Tribunal orders, pursuant to Regulation 38 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, that the Valuation Officer, within two weeks of the date of this order, shall alter the rateable value in the 2017 list in

respect of Poundland, 23 Fore Street, St Austell, Cornwall PL25 5PS to an RV of £94,000 with effect from 1 April 2017.

35. A refund of the paid fee will now be arranged (Regulation 13E of the Non-Domestic Rating (Alteration of Lists & Appeals) (England) Regulations 2009. Provided there is no review of the Tribunal's decision the refund will take around six weeks to process.

Date: 10 January 2024

Appeal number: CHG100921150

Rights of appeal

Any party who is aggrieved by the Tribunal's decision 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.