VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal appeal: Local Government Finance Act 1988; rental evidence; comparable hereditament; tonal evidence; weighting of evidence, appeal dismissed

APPEAL NUMBER:	CHG101049495	
RE:	Carpetright/Sleepright Beds, Unit 2, West Thurrock, RM20 3LP (the “subject property”)	
BETWEEN:	Carpetright	Appellant
	and	
	Joanne Moore IRRV (Hons) (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	12/09/2024 10:00	
BEFORE:	Mr S C Kamalan (Presiding Senior Member) Mrs N B N Imambaccus (Senior Member)	
CLERK:	Mr A Jolly	
APPEARANCES:	Ms N Awoyokun representing the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The rateable value (RV) of £204,000 based on a price of £220 per m² is confirmed.

Introduction

2. This appeal has been brought in respect of the following: an appeal was lodged by Mason Partners LLP on behalf of the occupier Carpetright Ltd on 16 April 2024 against the Valuation Decision of 21 December 2024.

3. The appellant had since entered into administration and therefore the representative did not have instructions to appear on the appellant’s behalf. The panel was referred to regulation

32 of the Valuation Tribunal for England (Council Tax and Rating Appeals)(Procedure) Regulations 2009 (SI2009/2269) which states:

32 Hearing in a party's absence

If a party fails to attend a hearing the VTE panel may proceed with the hearing if—
(a) it is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
(b) it considers that it is in the interests of justice to proceed with the hearing.

4. The panel was satisfied that the parties were notified of the hearing. It considered that it was in the interest of justice for it to continue and hear the appeal in the absence of the appellant.

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

6. The respondent was attending as both advocate and expert witness.

Issue

7. The issue before the panel concerned the price per m² to be adopted for the subject property with effect from 1 April 2017.

8. The subject property was a retail unit on a park with similar other units. Prior to the material day, which is 1 April 2017, the property and its locality was physically upgraded with significant refurbishments to its elevations. Also present at the material date was the extension of the park adjacent to the access road. The property was entered into the 2017 Rating List on 1 April 2017 at RV £204,000.

9. In their appeal the appellant's representative sought a reduction to RV £176,000 based on a price per m² of £190.

10. The respondent sought for the appeal to be dismissed confirming RV £204,000 based on £220 per m².

Decision and reasons

11. The appellant's representative stated in its submission that at the antecedent valuation date (AVD) of 1 April 2015 the passing rent was £227,093 per annum following a nil increase settlement effective from 30 April 2014 and that a subsequent review in April 2019 saw a nil increase again. This, he considered, gave an absolute ceiling on value in respect of the ground floor accommodation given that the rent could not fall on review as a consequence of the upwards only nature of the reviews.

12. The appellant's representative stated that, having regards to a three-month rent free period the passing rent at the AVD equated to £244.48 per m².

13. In support of his contention that £190 per m² should be applied he referred to Unit 5B1 West Thurrock Retail Park the headline rent analysed to £226.57 per m² but taking account the four-month rent free period and a £375,000 capital contribution it analysed over 10 years at £186.92 per m² or £147.27 per m² over five years. This unit had been placed in the rating list at £190 per m².

14. As further support the appellant's representative referred to units at West Thurrock Retail Park; Thurrock Shopping Park and Tunnel Retail Park where assessments had been revised and corrected since the challenge to £190 per m² or £195 per m². He accepted that these were larger than the subject property but, in his opinion, still supported a reduction of the subject property from £220 per m² to £190 per m².

15. The respondent informed the analysed rent was £244.48 per m² and supported £220 per m² adopted. She accepted that the rent had been static since the lease began.

16. The respondent stated that an error had occurred in the list in relation to Unit 5B1 West Thurrock Retail Park. She explained that it was part of a larger unit and due to quantum was in the list at £190 per m² but when the assessment was split into smaller units the price per m² had not been amended to take account that it was no longer a larger unit. As the life of the 2017 rating list was at its end it was not possible to correct the error in that list. She also stated that the £375,000 which the representative stated was a capital contribution was, according to the terms of the lease, an incentive and should be treated as such and the rent analysed to £226 per m².

17. The respondent referred to the appellant's representative's comparable hereditaments informing the panel that they were larger than the subject property and therefore due to effects of quantum the price per m² was lower than the subject property.

18. In support of her contention, the respondent provided assessment details of other units in West Thurrock Retail Park; Lakeside Retail Park, Thurrock Shopping Park and Tunnel Retail Park at between 768.7 m² and 1,158 m² where £220 per m² had been applied. She considered the best evidence to be Unit 2 Tunnel Retail Park with a rent commencing 14 March 2024 over 15 years starting at £245,000 with five yearly reviews and analysed to £220 per m². She considered this supported that the price per m² and the RV applied to the subject property were reasonable.

19. The panel first considered the analysing of the rental evidence of the subject property. The lease commenced with five yearly upward only rent reviews but had seen no increase since the start of the lease. This rent analysed to £244.28 per m² and therefore the passing rent would support £220 per m² being applied. However, the panel must consider the basket of evidence as well as the passing rent on the subject property.

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20. The appellant's representative considered that Unit 5B1 Thurrock Retail Park was the best evidence as it was similar in size but had been valued at £190 per m². The panel was informed by the respondent and that an error had occurred when the unit was being split from a larger unit and that the £190 per m² was based on it being the larger unit. The panel noted both parties analysed rent for this hereditament and noting that the £375,000 was, according to the Heads of Terms, an incentive not a capital contribution and therefore it considered the respondent's analysed rent of £226 to be the most compelling. This also would support £220 being applied although £190 per m² had been applied for the reasons given.

21. The panel then considered the other comparable evidence presented by the appellant's representative which showed price per m² adopted of £190 or £195. All these hereditaments were considerably larger than the subject property and the panel had been informed these comparable hereditaments had a lower value applied because of quantum. The panel therefore placed minimal weight on this evidence.

22. The panel then considered the respondent's comparable properties. These were all closer in size to the subject property and had been valued at £220 per m^2 including Unit 2 Tunnel Retail Park were the rental evidence analysed to £220 per m^2. The panel considered the respondent's comparable hereditaments to be compelling and placed considerable weight upon this evidence.

23. The panel having considered the evidence presented by both parties and having weighted that evidence considered the rent passing on the subject property together with the respondent's comparable properties to be the best evidence. From the evidence the panel was satisfied that RV £204,000 based on a price of £220 per m^2 was reasonable. The appeal is therefore dismissed.

Date issued to parties: 7 October 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.
