**VALUATION TRIBUNAL FOR ENGLAND**

*2017 Rating List Appeal appeal: Local Government Finance Act 1988; shop and premises; Lotus & Delta Ltd v Culverwell (VO) and Leicester City Council [1976] RA 141; tone of value of main space; comparable assessments; appeal dismissed.*

APPEAL NUMBER: CHG101051346

RE: Unit 17, Level 2, Victoria Shopping Centre, Harrogate,HG1 1AD (the "subject property")

BETWEEN: The Body Shop International plc — Appellant

and

(Valuation Officer) — Respondent

SITTING: *remotely using Microsoft Teams*

ON: 24 October 2024

BEFORE: Mr G McGill, Presiding Senior Member
Ms S Kinsella, Senior Member

CLERK: Miss N Shepherd IRRV (Hons)

APPEARANCES: Mr S Richardson of CBRE, on behalf of the appellant
Mr S Mann, on behalf of the Valuation Officer

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**DECISION AND STATEMENT OF REASONS**

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**Decision**

1. The appeal is dismissed.

2. The panel confirmed the Rateable Value (RV) for the subject property at £69,500 with effect from 1 April 2017.

## Introduction

3. The appeal process began with a challenge made by the appellant's representative on 18 April 2023 in respect of the Valuation Officer's (VO) rating list entry of the subject property at £69,500 RV with effect from 1 April 2017. The appellant's representative proposed a revised assessment of £52,000 RV from that date based on a reduced value for main space.

4. The respondent issued a challenge case decision notice on 22 September 2023, which found that the proposal was not well founded, and the current rating list entry was reasonable based on the information and evidence available. The appellant's representative appealed that decision to this Tribunal on 18 January 2024 on the grounds that the valuation for the subject hereditament remained unreasonable and sought a zone A rate of £800/$m^2$.

5. The subject property was a ground floor shop and premises constructed in 1992 and which measured 137.5$m^2$. It was located within Harrogate Town Centre on the western side of Victoria Shopping Centre, fronting onto Marketplace.

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

## Relevant Law

7. When arriving at its decision, the panel is governed by rating legislation laid down by Parliament. Schedule 6 to the Local Government Finance Act 1988, as amended by section 1(2) of the Rating (Valuation) Act 1999, defines the Rateable Value of a non-domestic property as the amount equal to the rent at which it is estimated the property might reasonably be expected to let on a year to year basis 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 the 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.

8. 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).

9. 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 appeals, the material day is 1 April 2017.

**Discussion**

10. The panel had regard to *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141. The panel was aware that this was a leading judgment which had set out six propositions to be followed when considering the weighting of evidence. The starting point was the subject rent. Consideration of how the time, subject matter and conditions related to the statutory requirements was required in order to determine how much weight should be attached to the subject rent. The remaining propositions required consideration of the rents of similar properties and comparable assessments. In light of all the evidence an opinion could then be formed.

11. Mr Richardson referred to the rent at the subject property and that weight should be attached to this. He submitted that it had been initially let out on a ten-year lease from 25 March 2008 at £65,300 per annum. The lease included a turnover rent of 10% of gross revenue, if this exceeded the base rent of £65,300, which Mr Richardson asserted had never been the case. There then followed a rent review on 25 March 2013 where a nil increase was agreed. The lease was then renewed with effect from 25 March 2018 and the rent reduced to £48,000 per annum.

12. Mr Richardson submitted that when the rent had been agreed in 2008, this was at the peak of the market and the fact that no turnover rent had been able to be paid, there was no increase at the rent review and the rent decreased in 2018, demonstrated that there had been a downward trajectory since that point. He contended that the rental amount had never reached that of the RV and when taking into account the rents agreed in 2008 and 2018 that the average rent at the AVD would equate to a zone A rate of £825.78m$^2$.

13. The panel noted that the rent review was agreed two years prior to the AVD and was an upward only rent review. As a result, it considered this was not necessarily indicative of the market rent at the AVD. It also considered the rental agreement made in March 2018 and found that the date of commencement of the lease was too far removed from the AVD to reliably reflect the rental value that could have been achieved by the subject property at that point and as such attached no weight to this evidence.

14. The panel then addressed the comparable properties submitted by both parties. No rental evidence had been provided but both parties referred to assessments they deemed comparable to support their respective contended tone of main space rate.

15. Mr Richrdson referred to Units 16, 20 and 19A, which were situated in the same terrace of external facing units as the subject property. Units 16 and 20 had a zone A rate of £750m$^2$ and Unit 19 A had a zone A rate of £850m$^2$. Mr Richardson submitted that these properties were good comparators to the subject properties due to their similar position, and that these base rates were considerably lower than the subject property and supported the proposed zone A rate of £800m$^2$ at the subject property.

16. Mr Mann disputed the comparability of these properties, contending they were significantly smaller than the subject property and were more akin to kiosk units. He submitted that the type of tenant that these units would attract would differ to that of the larger subject property, with them being occupied by small independent retailers, such as a barbershop, bakery and a jewellery exchange. Larger units, such as the subject property attracted national retailers. He also submitted that the subject property was situated in a more desirable position than Mr Richardson's comaprables, being positioned between two anchor tenants and only accessible from Market Place, not the shopping centre itself.

17. The panel studied the photographs provided. It could clearly see that the subject property was considerably larger than the properties submitted by Mr Richardson, and that these would attract a different type of tenant. It also noted the properties referred to by Mr Richardson were located nearer the end of the terrace, with Unit 19a being situated next to a large service area. Having consideration to the photographs, the panel considered that the subject property did appear to be in a more desirable position than that of the comaprables submitted by Mr Richardson.

18. Mr Mann had provided details of four properties situated opposite the subject property which were all standard sized shops, accessible only via Market Place and which all had a zone A rate of £1050m$^2$, the same as that of the subject property. He contended that 7, 17 and 19 Market Place base rates had not been challenged throughout the 2017 list demonstrating that a tone had been established. Furthermore, 9/15 Market Place had been challenged, but the challenge was later withdrawn, showing the tone had been accepted, and therefore the adopted rate at the subject property was reasonable.

19. Mr Richardson contended that the properties referred to by Mr Mann were more desirable than the subject property, being situated on the west side of Market Place, meaning they were more visible from Cambridge Street, due to trees and benches blocking the view of east side. Having regard to the photographs, the panel did not consider that the trees and benches had a negative impact on the positioning of the subject property nor that Mr Mann's comparables appeared to have a more desirable location.

20. Having consideration to the evidence and submissions of both parties the panel attached most weight to the evidence presented by Mr Mann. It considered these comparables demonstrated there was an established tone for properties comparable to the subject property within the locality, which would attract a national retailer, and which were only accessible via Market Place. Therefore, based upon the evidence provided, the panel found the zone A rate of £1050m$^2$ at the subject property to be reasonable.

**Disposal**

21. In view of the above findings and conclusions, the panel confirmed the RV of £69,500 for the subject property with effect from 1 April 2017 and dismissed the appeal.

**Date issued to parties:** 23 November 2024

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**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.

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