VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating appeal; 2017 Rating List; shop and premises; tone of value of Zone A; comparable assessments; appeal dismissed.

APPEAL NUMBER: CHG101094026

RE: Fatface, 7-9 Bridlesmith Gate,Nottingham NG1 2GR
("the subject hereditament")

BETWEEN:	Fat Face Ltd	Appellant
	and	
	Jo Moore (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 18 July 2024

BEFORE: Mr K Everett (Presiding Senior Member)
Miss FCC Anderson (Senior Member)

CLERK: Mr S Fletcher

APPEARANCES: Mr S Bicknell of GL Hearn (Appellant's representative)
Ms D Holmes (Respondent's representative)

DECISION and STATEMENT OF REASONS

Decision

1. Appeal dismissed. The panel confirmed the rateable value (RV) of the subject hereditament to be £215,000 with effect from 27 October 2017.

Introduction

2. The appeal process began with a proposal made by the appellant's representative on 20 July 2023 in respect of the Valuation Officer's (VO) list entry of the subject

hereditament at £238,000 RV with effect from 27 October 2017. The appellant's representative proposed a revised assessment of £214,000 RV from that date based on a reduced tone of value for Zone A or an allowance for the size of the property.

3. The respondent issued a challenge case decision notice on 23 October 2023, which stated that, based on the evidence available, the existing rating list entry of £238,000 RV was unreasonable and determined a revised entry of £215,000 RV with effect from 1 April 2017. The revised RV accounted for an allowance of 10% (excluding plant and machinery) for the large size of the property and awkward shape of its rear. The appellant's representative appealed that decision to this Tribunal on 23 February 2024 on the grounds that the valuation for the subject hereditament remained unreasonable and sought a reduced Zone A rate of £1,700 per m^2 from £1,900 per m^2.

4. The subject hereditament was a shop and premises occupied by the appellant as the leaseholder on Bridlesmith Gate, which was described as a prime pedestrianised shopping street in Nottingham City Centre.

5. Mr Bicknell appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), the representative confirmed that he was instructed under a conditional fee arrangement. 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 or not the evidence supported the client's case.

6. The panel accepted this expert witness evidence on the above basis as the parties agreed the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of Valuation Tribunal for England (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.

7. As part of their induction training, two new members of the tribunal were observing proceedings. It was explained to the parties that it was the panel's intention to invite their colleagues to accompany it to the retiring room. The parties were assured that the new members would not participate in the decision-making exercise but would simply observe as part of their training. Neither party raised any issues or objections to this.

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

Issue

9. The issue for the panel to determine was the correct RV to be attributed to the subject hereditament in the 2017 rating list. The dispute concerned the tone of value for Zone A.

Evidence and submissions

10. Arguments and factual evidence from both the appellant's representative and the respondent were provided. This comprised documentation exchanged between the parties

as part of the challenge process, the appellant's representative's challenge submission, the respondent's challenge decision notice and a GOAD map and photographs of the location of the subject hereditament.

Discussion

11. The subject hereditament must be valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to be let from year to year on a number of assumptions. Those assumptions are listed in paragraph 2(1) of Schedule 6 to the Local Government Finance Act 1988.

12. In accordance with the Rating Lists (Valuation Date) (England) Order 2014 (SI:2014 No.2841), the date of the hypothetical rent was 1 April 2015, the antecedent valuation date (AVD). This common date was used to ensure that every property was treated in a consistent way.

13. Matters that affected the physical state or enjoyment of the property or the locality were to be taken at the material day, as outlined by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject hereditament, the material day is 27 October 2017.

14. It is a well-established rating principle that the starting point in the determination of a property's RV should be the rent passing on the subject hereditament itself. The current lease was a new letting commenced on 4 September 2017 at a rent of £185,000, with the next rent review capped at £195,000. The respondent's representative stated that it was later agreed to push back the break date of the lease by 24 months in return for a 3-month rent-free period related to the Covid-19 pandemic. He argued that a reduced tone of value for Zone A was more in line with the rent than the valuation by the respondent. No rental evidence of comparable properties was provided by either party.

15. Mr Bicknell stated that the stretch of shops running from number 7 to 31 Bridlesmith Gate had always been assessed at the same value for Zone A. He argued that this was mostly consistent between the rating lists of 2010, 2017 and 2023. However, the respondent had reviewed the list values in the 2017 rating list and reduced the value of Zone A at numbers 15 to 31 Bridlesmith Gate to £1,700 per m^2. Numbers 7 to 13 Bridlesmith Gate, which included the subject hereditament, remained at £1,900 per m^2. He accepted that numbers 15 to 31 were less visible from the junction where the subject was situated, however, he argued that the junction resulted in the dispersal of pedestrians into different directions, and as such the subject hereditament lost some of the natural flow of pedestrians travelling through the area. Mr Bicknell stated that the advantage of its visibility was offset by the disadvantage of disturbed pedestrian flow, and it should be valued in line with the properties with a Zone A tone of value of £1,700.

16. The respondent contended that the determined tone of value for Zone A at £1,900 per m^2 was reasonable for the subject hereditament as it was located in the most superior location on Bridlesmith Gate. Ms Holmes stated that it was closest to Clumber Street, which led to Victoria Shopping Centre, streets leading to Market Square and visible from St Peters Gate. She argued that the tone of value for properties was higher in the area north of St Johns Parade, as it was a position with better visibility and led to several paths leading to the centre of the city. The respondent had given an allowance of 10% to account for the

property being larger than its immediate neighbours, and for the poor shape of the rear of the property.

17. The panel was presented with little evidence from both parties. It gave limited weight to the rent at the subject hereditament as it was agreed over two years after the AVD. No rental evidence for comparable properties was provided. It attached little weight to the argument pertaining to consistency between the three rating lists since 2010 as each list when compiled is done so using evidence unique to that time. It was left to compare the competing Zone A values of the neighbouring retail units to the subject.

18. The panel determined that the respondent's tone of value for Zone A of £1,900 per m^2 was fair. It found that the subject hereditament was clearly in the most prominent position on Bridlesmith Gate and would benefit from passing trade to and from the centre of the City through the Gate and from St Peters Gate. The property benefitted from a high level of visibility being situated at the centre of an open junction between Bridlesmith Gate and St Peters Gate, whereas the comparable assessments with a lower tone of value for Zone A were located further away from the junction on a narrow part of the street facing each other. The panel also considered that the respondent had been reasonable in giving a 10% allowance for the size and shape of the property when compared to its neighbours.

Disposal

19. Having regard to the evidence, the panel determined that the tone of value for Zone A was fair and reasonable at £1,900 per m^2. The subject's RV at £215,000 with effect from 27 October 2017 was confirmed.

20. In view of the foregoing, the appeal was dismissed.

Date: 29 July 2024

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.
