



VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; Non-Domestic Rating; Amusement arcade and premises; method of valuation; appeal allowed in part.

APPEAL NUMBER: CHG101146339

RE: 12-25 The Front, Seaton Carew, Hartlepool TS25 1BS
(the "appeal property")

BETWEEN:	Rubicon Pastimes Ltd	Appellant
	and	
	Amanda Hitchings BA (Hons) MRICS (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: Wednesday 4 September 2024

BEFORE: Mrs AE Fielder (Presiding Senior Member)
Mr P Phelps (Member)

CLERK: Miss K Hendry IRRV(Tech)

APPEARANCES: Mr J Bell of Bell & Bell Rating Surveyors (Appellant's Representative)
Mr O Ridley (Respondent's Representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is allowed in part.
2. The panel confirmed the rateable value (RV) £107,000 with effect from 13 August 2017.

Introduction

3. This appeal has been brought in respect of the appeal property which was entered in the 2017 rating list as "Amusement arcade and premises" at RV of £128,000 effective from 13 August 2017.

4. The challenge proposal was submitted by Bell & Bell Rating Surveyors on behalf of Rubicon Pastimes Limited and was received by the Valuation Officer (VO) on 29 June 2023. A revised RV of £62,500 was proposed with effect from 13 August 2017.
5. The VO issued a challenge case decision notice on 5 December 2023 which disagreed with the proposed alteration of the list and stated that the rating list entry was reasonable based on the evidence and information available.
6. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal to this Tribunal has been made on the grounds that the valuation for the hereditament is not reasonable. The appeal was lodged by the appellant's representative and received by the Tribunal on 5 April 2024.
7. Mr Bell 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), his declaration of truth included a statement that he was not instructed under any 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.
8. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

9. The issue for the panel to determine was the correct RV to be attributed to the appeal property in the 2017 Rating List.

Relevant Law

10. The panel is governed by Schedule 6 to the Local Government Finance Act 1988 as amended by the Rating (Valuation) Act 1999, which provides that:
 - 2(1) 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.

11. 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).
12. 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 13 August 2017.

Discussion

13. Mr Bell explained that the appeal property was considered to be an amusement arcade prior to works which commenced in 2016 and completed on 13 August 2017. The works included creating a new bowling alley, bar area and refurbishment of the adjoining properties. Mr Bell argued that the appeal property was now considered to be a 'Family Entertainment Centre' and no longer an amusement arcade.
14. Given that the property was now a Family Entertainment Centre, Mr Bell confirmed he agreed with the VO that it should be valued on an overall basis. However, he argued that the VO when valuing, had failed to take into account the location of the appeal property and had valued it on the same rate as others in more superior locations.
15. Dunes Adventure Island, Sea Road, South Shields. This property measured 3,553.3m² in comparison to the appeal property at 2,720.64m². It had very similar activities to the appeal property, such as games and machines, 12 lane bowling alley, soft play, pool, café, sports bar, function rooms including dance school. It had been valued at £60.00/m² and £54.00/m² for the soft play area. It had also been granted an allowance of 13% for size and 3% for layout equating to a RV of £167,000. This equated to a main space rate of £50.63 and £45.57.
16. Fantasy Island, Foreshore Road, Scarborough. This property measured 3,273m² and was also operated by the appellant, Rubicon Pastimes Limited. It held a rent of £195,000 following reviews effective from 1 March 2015 and 1 March 2022. Mr Bell had devalued this to £59.57/m² which supported the RV of £195,000. The activities in this property were games and machines, pool and snooker, 10 pin bowling alley, karaoke area, mini dodgems, licenced bar, café and darts area.
17. J Noble and Sons Limited, 30 Promenade, Bridlington. This property measured 5,173m². The activities consisted of games and machines, bowling alley, licensed bar, cinema, soft play, restaurant and a nightclub. It had been valued on a RV of £206,000 equating to £39.91/m².
18. Mr Bell argued that Dunes Adventure Island was surrounded by a population of 77,000 and had 2.6 million visitors in a year. Fantasy Forest in Scarborough had a population of 108,000 and had 3.1 million visitors. Lastly, 30 Promenade had a population of 35,000 and 1.3 million visitors. The appeal property had very few in comparison, only 370,000 visitors with a population of 6,100. Mr Bell argued that rather than travel to Seaton Carew, the main attraction point would be to go to South Shields due to ease of accessibility, number of attractions, parks and boating lake.
19. Mr Bell sought for the appeal property to be valued on a main space rate of £35.00/m² having regard to the following comparable properties and their locations. He also sought a 20% end

allowance for the merger of the units, equating to a revised RV of £62,500 with effect from 13 August 2017.

20. In response, Mr Ridley stated that he felt 10% allowance would be fair if the main space price remained at £60.00/m². He felt that the appeal property was more of an attraction in the area than Mr Bell had described, considering it was situated close to Hartlepool.
21. Having regard to the evidence, the panel agreed that the appeal property was in a poorer location compared to the comparable properties put forward. The panel applied little weight to J Noble and Sons Limited situated in Bridlington as this property was significantly larger. As the Dunes had been valued at £60.00/m² and was in a better location, the panel were not persuaded that a reduction of £35.00/m² should apply, and instead adopted a reduced rate of £50.00/m².
22. This resulted in a revised RV as follows:

COMPONENT PARTS OF PROPERTY				
Floor	Description	Area m ² /unit	£ per m ² /unit	Value (£)
Ground	Amusaement Arcade	2552.22	50.00	127,611
First	Internal Storage	112.12	25.00	2,803
Second	Internal Storage	56.3	12.50	704
	Air Conditioning	142.18	7.00	995
	Outdoor Covers Area	56.02	2.00	112
Sub-total	132,225			
ADJUSTMENTS MADE TO THE SUB TOTAL				
Divided or split unit		10.00%		
Quantum		10.00%		
			-25,123	
Valuation sub-total				107,102
Say RV				107,000

23. The panel confirmed a revised RV of £107,000 with effect from 13 August 2017 based on a reduced rate to £50.00/m² with 10% allowance for split unit and 10% for quantum. The appeal was allowed in part.

Disposal

24. In accordance with Regulation 38(4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the respondent is ordered to alter the subject hereditament's entry in the rating list to £107,000 RV with effect from 13 August 2017. The respondent must comply with this order within two weeks of its making.

25. Any fee paid will be refunded in full in accordance with regulation 13E of the above Regulations.

Date issued to parties: 2 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.
