VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; Local Government Finance Act 1988; zone A price in dispute; high amount of adjustments to the appeal property rent; local rental evidence demonstrated that the rateable value was not unreasonable; appeal dismissed.

APPEAL NUMBER:	CHG101173173	
RE:	Ground Floor , 61-63 High Street, Swadlincote, DE11 8JA (the "appeal property")	
BETWEEN:	John Burnton	Appellant
	and	
	Joanne Moore (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	2 October 2024	
BEFORE:	Mr SC Kamalan, Presiding Senior Member Mrs V Hollender, Member	
CLERK:	Mr D Mulgrew	
APPEARANCES:	Mr F Smith, appellant's representative Mrs K Cockhill, respondent's representative	

DECISION AND STATEMENT OF REASONS

Decision

1. Appeal dismissed. No change was made to the rateable value of the property.

Introduction

2. The appeal property was entered in the 2017 rating list as "shop and premises" at rateable value £15,000 effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appellant made an appeal to the Valuation Tribunal for England (VTE) because the respondent had decided not to alter the 2017 rating list following the appellant's proposal which sought a reduction to £11,500 with effect from 1 April 2017.

4. The appeal to this Tribunal has been made on the grounds that the valuation for the appeal property is not reasonable.

5. The appellant's representative had made an adjustment to his valuation close to the hearing date and had amended it to rateable value £12,500.

6. Both parties' representatives appeared in a dual role of advocate and expert witness. They were not instructed under a conditional fee arrangement or other success related fee. The appellant's representative confirmed he was self-employed and that he was not working for a firm which was on any incentivised fee contract.

7. The panel accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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).

8. During the hearing, the appellant's representative had a minor problem with his computer's power and the proceedings were briefly adjourned (with the panel retiring) while he resolved this. The adjournment was only a matter of minutes before the hearing resumed.

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

Relevant Law

10. The term "rateable value" was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken as at 1 April 2015, the antecedent valuation date (AVD).

Discussion

11. The appeal property was a ground floor retail unit located at the lower end of the High Street. It had an attractive red brick appearance with period shop windows. The appellant is the landlord. He retained the separately assessed first floor for his formal menswear hire

(weddings) business on an appointment only basis. The building also included a basement hairdressing salon which was also separately assessed.

12. The High Street is a pedestrianised area. There are several car parks in the town with one immediately behind the appeal property accessed at the side through an archway.

13. The material day to consider the appeal property and the locality was 1 April 2017.

14. The dispute between the parties concerned the zone A price to be adopted in respect of the appeal property's rating valuation. The respondent had used £230/m^2 whereas the appellant sought a reduction to £190/m^2.

15. The property currently has a 5% adjustment for access, and this has been applied to the ground floor unit to reflect the right of access/fire escape route to the first floor. During the hearing, the panel also heard that that the shop had a problem with masking and there was a right of way retained by the appellant to enter the shop with his clients to access the stairs to his first floor business. No adjustments had been sought for those matters in the challenge proposal and the panel did not consider it appropriate to consider any specific end allowances.

16. The Lands Tribunal decision in *Lotus and Delta Ltd v Culverwell (Valuation Officer) and Leicester City Council* [1976] RA141, was referred to during the hearing. This provided guidance on the weight to be attached to rental and assessment evidence. The rent is considered the starting point and more weight is attached to those rents nearest to the statutory criteria of rateable value and which are agreed closest to the AVD of 1 April 2015. Other rents are also considered in order to confirm or otherwise the level of value indicated by the actual rent of the appeal property. Other comparable assessments are also relevant but to a lesser degree. In light of all the evidence an opinion could be formed on the rental value of the appeal property, the weight to be attributed to the different types of evidence depending on one hand on the nature of the actual rent and on the other hand, on the degree of comparability found in other properties. In those cases where there are no rents available for comparison, a review of other assessments may be helpful, but in such circumstances it would clearly be more difficult to reject the evidence provided by the actual rent.

17. The appeal property was let from 1 July 2016 at £12,000 pa inclusive of utilities (water and electric), external repairs and business rates. It was let on a "licence" basis on a seven year term. This may or may not have been due to the appellant retaining a right of way through it to access his first floor showroom.

18. The respondent had placed little weight to the rent on the appeal property because it was a licence arrangement and it was more than one year after the AVD. The appellant's representative argued that the licence was as good as a lease and weight should be given to it.

19. The panel was not too concerned with the 1 July 2016 being too remote from the AVD having regard to the dates of the other rents used in evidence. However, when asked, the appellant's representative gave some approximate values of the utilities and business rates included in the rent. After adjusting the rent so that it was in line with the rating hypothesis (where the tenant is responsible for all rates, taxes, repairs and insurance), the panel found that the adjusted rent was likely to be in the region of £4,000 per annum. This was way out of line with all the other available rental evidence in the town centre around the AVD. In view of this and the big adjustments to the appeal property rent, the panel had concerns about placing too much reliance on it.

20. The respondent's rent schedule showed that 56 High Street had been let from 1 June 2015 at a rent that devalued to £209.09/m^2 and the rent for 74 High Street from 1 February 2016 analysed at £238.97/m^2. Both rents were in respect of new leases and the panel considered them good evidence; the only minor weakness with the evidence being that those rents had been adjusted for either repairs or a stepped rent.

21. Four other rents were provided from lettings reasonably close to the AVD in respect of premises on Church Street and Midland Road. Three of the rents were higher than £230/m^2. Number 13 Church Street was significantly lower than this level but it was further from the centre on a one-way road with double yellow lines. The panel found this to be an inferior location to the appeal property which had the advantage of being in the pedestrianised zone with free car parking behind it and nearby.

22. Having regard to all the rental evidence, the panel concluded that it showed it unsafe to alter the zone A price for the appeal property on the basis of its rent as it was so much out of line with the other rental evidence.

23. The panel also had regard to the comparable assessments and noted that three High Street shops (7, 43C and 46-48) had been settled on challenge at a zone A rate of £230/m^2. The respondent's representative argued that a tone of list had now been established given that the rating list had now ended and assessments could no longer be challenged.

24. The appellant's representative considered the location of the agreed rateable values to be the "prime" location at the top of High Street (Tui at 11-13, Boots at 15-17) and other properties such as 44 High Street (Clinton Cards). He stated that the better locations in Swadlincote, as above, were originally valued at £280/m^2 and were reduced across the board to £230/m^2 in April 2021. However, there was no corresponding adjustment for the poorer locations at the bottom end of High Street, and which has, in his opinion, skewed the values. With the exception of Lloyds Bank, all the occupiers surrounding the appeal property are local traders. Their rateable values were mainly below £12,000 which meant, in the appellant's representative's opinion, they qualify for small business rate relief and have no incentive to challenge their rateable value. The panel considered this to be a good argument from the appellant's representative, but the panel decided that greatest weight should be given to the local rental evidence, particularly from High Street.

Disposal

25. In view of the above findings and conclusions, the panel considered the appeal property rent to be out of line with the other available rental evidence from the town centre. The other rental evidence supported £230/m^2 in terms of zone A. There had also been settled rating appeals at £230/m^2 with no other settlements below this level near the appeal property. Ultimately, the panel found that there was insufficient evidence to disturb the zone A price. The appeal was therefore unsuccessful, and the panel dismissed it.

Date issued to parties: 10 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.
