

THE VALUATION TRIBUNAL FOR ENGLAND



Summary of Decision: non-domestic rating appeal; accuracy of compiled list RV in 2017 Rating List; shop and premises; main space price; rental evidence; comparable properties; existing entry held to be not reasonable; appeal allowed.

Re: 183 Woodhead Road, Bradford BD7 2BL

APPEAL NO: CHG000000120

BETWEEN: *Mrs K Mundiya t/as Tariq Stores* Appellant

and

Mr Richie Roberts Respondent

(Valuation Officer)

PANEL: Mr B Varley (Chairman) and Miss M Dowrick

SITTING AT: Manchester

ON: Thursday 28 June 2018

APPEARANCES: Mr Mark Bates (Appellant's representative)

The Respondent Valuation Officer was represented by Mr Christopher Robinson as advocate and as expert witness, albeit that he had not seen the property.

Summary of Decision

1. The appeal is allowed and the entry is reduced to £12,000 Rateable Value with effect from 1 April 2017 as the existing entry of £13,500 is not reasonable.

Introduction

2. This is a 2017 Rating List appeal. The Rateable Value of the appeal hereditament is £13,500 from 1 April 2017. This is a compiled list appeal so the material day is also 1 April 2017. The appeal was made on 16 March 2018 against the Valuation Officer's Decision Notice of 27 November 2017 in respect of the appeal property (hereditament). The Valuation Officer's decision was to treat the appellant's proposal as not well founded and the existing entry of £13,500 RV was originally deemed as correct. The appeal has been made on the grounds that the current valuation is not reasonable.
3. The appeal property is a shop and premises situated on Woodhead Road in Bradford. It has an area of 158.2m² and is assessed on an overall basis, as opposed to a zonal basis. The existing entry is based on an adopted main space price of £90 per m². On behalf of the appellant, Mr Bates is seeking a reduced entry of £12,000 Rateable Value based on £80 per m². Areas and relativities are agreed.
4. The appeal property is a large shop that has been created from four terraced Victorian houses which have been knocked through and amalgamated. The appellant sells clothing. It is situated in a residential area surrounded by high density housing.
5. When the appeal was received the appellant's representative failed to forward onto the tribunal all of the Valuation Officer's information that was exchanged at the challenge stage. The Valuation Officer subsequently provided the tribunal with the evidence that was omitted and Mr Bates did not object to its inclusion, having accepted it should have been included with the appeal documentation, as required by the regulations.

6. At the hearing, Mr Bates wished to submit evidence in the form of location maps and photographs of the appeal property and the comparable properties. In accordance with the Tribunal's Consolidated Practice Statement there is no need to produce plans and photographs prior to the hearing (paragraph 12 of the Tribunal's Directions) but this material should be agreed between the parties, which appeared not to have occurred in this case. The respondent's representative was therefore afforded time to study the new material before the hearing commenced and consented to its admissibility in these proceedings. The panel therefore decided to admit this evidence.
7. The appellant is reminded that in future this material should be agreed prior to the hearing in accordance with the Standard Direction:

'12. There is no need for parties to submit photos and plans to the Tribunal at the two week period, but there should be agreement before the hearing between the parties that any photos and plans submitted to assist the panel on the day are a true representation of the situation at the material day.'

8. If a party wishes to refer to new evidence not included in the appeal papers, this evidence should be forwarded to the other party involved and the tribunal so that its admissibility can be considered under Regulation 17A of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (SI 2009 No 2269) which is as follows:

Admission of new evidence on NDR appeal

17A.—

(1) On a NDR appeal, the VTE may only admit evidence that was not included in the notice of appeal or any document accompanying the notice of appeal ("new evidence") if—

(a) that evidence—

(i) is provided by a party to the appeal;

(ii) relates to the ground on which the proposal was made; and

(iii) was not known to the party and could not reasonably have been acquired by the party before the proposal was determined under Part 2 of the NDR Regulations; or

(b) all the parties to the appeal agree in writing to the party providing the new evidence.

(2) If the VTE admits new evidence under paragraph (1), the VTE may admit further evidence provided by another party to the appeal if the further evidence specifically relates to—

(a) the new evidence; and

(b) the ground on which the proposal was made.

(3) A party which provides evidence under paragraph (1) or (2) must also provide that evidence to all the other parties to the appeal.

Decision and reasons

9. The appeal 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 let from year to year on a number of assumptions (see paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988). The date of the hypothetical rent is April 2015 (antecedent valuation date or AVD).

10. Matters that affect the physical state or enjoyment of the property or the locality are to be taken as at 1 April 2017 for this appeal.

11. The appeal property is owner occupied so there is no direct rental evidence. The Valuation Officer provided two pieces of indirect rental evidence relating to shops in the post code area BD7 1. These properties are Unit 3 at 14

Shearbridge Road and 61A Listerhills Road. The former property was a social club which was built in 1973 but refurbished in 2011, as part of its conversion for retail use. The second property is slightly smaller than the appeal property at 135m². It was purpose built in 2013. It has a better appearance than the appeal property and is on an arterial road. The respective rents when devalued in terms of rateable value are £88.31 and £166.67 per m². The adopted main space prices are £85 and £105 per m² respectively.

12. Mr Robinson was unable to provide the background to these rents as he had not seen the forms of return. Having regard to the rent passing on 61A Listerhills Road, he freely admitted that the rateable value entry appears low.
13. In view of Mr Robinson's comments and his failure to produce the forms of return at the hearing, the panel attached no weight to this evidence.
14. In the absence of any reliable rental evidence, the panel had regard to the comparable property evidence.
15. Mr Bates had referred to a number of comparable properties. However, he was mainly reliant on 321 Legrams Lane, which is assessed at £80 per m² and Unit 3 at 14 Shearbridge Road which is assessed at £85 per m².
16. Mr Bates argued that it is unfair for his client's property to be assessed at a higher rate, in comparison to 321 Legrams Lane, when it is in an inferior location. Mr Robinson contended that 321 Legrams Lane is not reliable for comparable purposes as it is around twice the size of the appeal property and therefore quantum is a factor. However, no rental evidence was produced to support his assertion that quantum is reflected in the rents.
17. Mr Bates argued that if Unit 3 at 14 Shearbridge Road is assessed at £85 per m², his client's shop being of much older vintage and further away from the town centre, should be assessed at a lower rate. Mr Robinson did not disagree with the premise that a more modern property, closer to the town centre, would attract a higher rent.

18. The Valuation Officer had described the appeal property as being situated on a main arterial road, however, he was forced to backtrack having regard to the location map. He accepted that it is not on a main arterial road and instead argued that it is on a cut through road. He accepted that Legrams Lane is a main arterial road. The panel noted that traffic calming measures had been introduced on Woodhead Road some time ago. .
19. Mr Robinson accepted that he had not visited the locality and the respondent's case was further undermined when he was unable to identify where his comparable properties were on the location map.
20. Mr Robinson also referred to 16 Longside Lane for the purposes of comparison. This is a former Victorian mill that was refurbished in 2012. It is 136m² in size and assessed at £100 per m². As Mr Robinson acknowledged he had not been to the locality, and was therefore unable to provide any more information, the panel attached little weight to this evidence.
21. Having regard to the competing comparable evidence, the appellant's representative's arguments were made out. The Valuation Officer's adopted main space price for the appeal property of £90 per m² appears excessive given the fact that 321 Legrams Lane which is in a far superior location is valued at £80 per m². The appeal property's assessment also appears excessive having regard to the fact that Unit 3 at 14 Shearbridge Road is assessed at £85 per m². This is a superior property to the appeal property and also benefits from being closer to the town centre.
22. In view of the foregoing, the grounds of the appeal are upheld to the extent that the existing valuation of £13,500 RV is not reasonable. The panel therefore upholds the appellant's proposed valuation of £12,000 RV.

Order:

23. As a consequence of the above decision, the Valuation Officer is ordered to reduce the 2017 Rating List entry to £12,000 within 2 weeks of the date of this Order. The ratepayer is also entitled to a refund in full of the fee paid in

accordance with regulation 13E (1)(a) of the Non-Domestic Rating (Alteration of Lists and Appeals)(England) Regulations 2009.

APPEAL NO: CHG000000120

Date: 4 July 2018