

THE VALUATION TRIBUNAL FOR ENGLAND



*Non Domestic Rating Appeal; 2017 Rating List; Shop and Premises;  
Rental evidence; Weight attached to evidence; Appeal allowed in part*

Re: Unit 6 Parliament Row, Hanley, Stoke-on-Trent, ST1 1QD

APPEAL NO: CHG100012122

BETWEEN:

Picton (GP) No.2 Ltd

(Appellant)

and

Mr Richie Roberts

(Respondent Valuation Officer)

BEFORE: Dr J Johnson (Chairman); Mr B Lomax

SITTING AT: Offices of the Tribunal Service, Manchester

ON: Friday 26 October 2018

APPEARANCES:

Mr M Hayes of CBRE Ltd, representing the Appellant as advocate and expert witness.

The Respondent was represented by Mrs J Hodgson of the Valuation Office Agency as advocate and expert witness.

**Summary of decision**

The appeal was allowed in part and the assessment was determined at £32,250 with effect from 1 April 2017.

## Introduction

1. This was a 2017 Rating List appeal and the rateable value of the appeal hereditament was £60,000 with effect from 1 April 2017. This was a compiled list appeal so the material day was also 1 April 2017. The appeal was made following the Valuation Officer's Challenge Case Decision Notice of 27 February 2018 in respect of the appeal property.
2. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel when coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.
3. With the agreement of the parties, the panel determined that the appeal should be heard concurrently with a second appeal made by the appellant's representative in respect of the adjacent property, 8 Parliament Row. The appellant was the same in both cases and it was established that the evidence both parties had relied on was the same in each case.
4. The appellant's representative, when appearing as expert witness, declared that he was under the term of a conditional fee basis. However, he also declared that he understood and accepted that his duty is 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 his client's case.
5. 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 procedure regulations 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).
6. The panel hearing the evidence thus considered the "expert" evidence and assessed what weight, if any, to give to it in the context of the matters in issue before it.
7. As a preliminary matter Mr Hayes raised a concern regarding the revised procedures adopted for appeals against the 2017 rating list and, in particular, the fee necessary to make the appeal. The two appeals before the panel were, quite reasonably, to be heard as one as they involved the same evidence and had been considered together. He had questioned whether a single fee should be chargeable in such circumstances but had been advised that a separate fee must be charged for each appeal.
8. Whilst the panel noted the comment, it was recognised that the reasoning behind the decision to make a charge for submitting appeals was a political decision and in collecting the monies, the Valuation Tribunal Service simply provided an administrative function supporting the Valuation Tribunal for England and acted in accordance with the relevant legislation. The panel

declined to make any comment other than stating that the concerns would be noted.

9. The respondent also raised a preliminary issue and submitted that the appellant's appeal evidence did not comply with the Non-Domestic Rating (Alteration of Lists and Appeals) (England) (Amendment) Regulations 2017. She stated that the appellant had contended for the removal of a 5% end adjustment but submitted that this had not been raised as one of the grounds of proposal in either his challenge submission or in the subsequent exchange of evidence.
10. Mr Hayes submitted that his valuation had never included an end adjustment and thus, in explaining his valuation, he would, of necessity, explain why he had not made such an adjustment. This was not, he argued, new evidence, merely an explanation of how his proposed rateable value had been established. He failed to understand how this could be disregarded if he was to be allowed to properly support his contention.
11. Having retired to consider the matter, the panel found that the Valuation Officer was not being disadvantaged and that there was nothing in the appellant's appeal evidence to make it materially different from that submitted at the challenge stage. The valuation proposed was unchanged and the panel accepted that it was reasonable to expect the appellant to provide argument in support of the rateable value he considered to be correct.

## **Issues**

12. The issue in dispute was the zone A rate to be divided in respect of the subject property and the resulting rateable value. The respondent's valuation included an adjustment of 5% to reflect a rear access to the sales area. The appellant's valuation did not include this addition.

## **Evidence and Submissions**

13. The appeal hereditament is a vacant shop and premises fronting Parliament Row and is centrally located in the pedestrianised area of Hanley Town Centre. The unit sits below a vacant, two storey office building and has a secondary glazed frontage with an entrance to Tontine Square.
14. The present valuation of £60,000 RV is based on an adopted zone A rate of £800 per m<sup>2</sup>, with an addition of 5% to reflect the additional Tontine Square access.
15. In a statement which accompanied the challenge, Mr Hayes explained why he believed that the 2017 assessment was incorrect and excessive. He argued that the Valuation Officer had failed to fully reflect the rental evidence that was available and had seemingly had no regard to evidence from adjoining properties, particularly in respect of numbers 8 and 10 Parliament Row.
16. In support of his argument, he referred to a schedule detailing the evidence that had been provided by both parties. The VO had placed greatest weight on evidence obtained relating to Nos. 2, 17 and 21 Parliament Row but, he

submitted that greater weight should be placed on the evidence relating to Nos. 8 and 10 Parliament Row. The evidence is summarised below:

Address	Area ITMS (m <sup>2</sup> )	Effective Date of Rent	Analysed Rent	Adopted Value (£pm <sup>2</sup> )	Current RV
2 Parliament Row	126.07	7 Jun 12	£793.21	£800	£102,000
17 Parliament Row	38.39	15 Jun 13	£781.05	£700	£27,000
21 Parliament Row	47.59	27 Nov 15	£672.41	£700	£33,250
10 Parliament Row	63.74	4 Jul 14	£449.48	£800	£64,000
8 Parliament Row	43.43	2 Jul 14	£343.80	£800	£35,250
8 Parliament Row	43.43	3 Apr 17	£355.30	£800	£35,250

17. Mr Hayes provided details in respect of each of the above properties and explained that the second entry relating to 8 Parliament Row in 2017 was not a tenancy agreement but related to heads of terms which had been issued to a potential tenant and he stated that the lease had not been completed due to the high level of business rates.
18. Mr Hayes submitted that greatest weight should be placed on the 8 and 10 Parliament Row deals which were all new, open market lettings on properties within the same parade as the appeal property, which had been agreed or discussed within 24 months of the antecedent valuation date. This, he argued was in accordance with the propositions established in *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA, which provide guidance as to the weight to be attributed to rental and assessment evidence.
19. Referring to the other three properties, Mr Hayes contended that minimal weight should be placed on 2 Parliament Row which was agreed three years prior to the AVD and related to the assignment of a lease with 11 years unexpired. He considered the details of the letting to be unclear and he asserted that it seemed unlikely that the assignee did not receive a capital contribution from the assignor. He also stated that the property is in a very prominent position, likely to be more sought after than the subject property. Both of the other properties are in a different parade to the subject unit and, he argued are not comparable. The deal relating to 17 Parliament Row was a one year lease only and, he considered that the tenant would have been likely to have paid a premium for this flexibility. The lease on 21 Parliament Row

related to a renewal and not a new letting and thus, he contended should attract less weight than a new letting.

20. Having regard to this evidence he argued that his proposed zone A rate of £343.80 was fair and reasonable having regard to the best available evidence. On this basis, he contended that the rateable value should be determined at £24,500. This figure did not have any end adjustment to reflect the rear shop frontage and he contended that such an addition was not justified given that it is 1.5m above street level and thus was accessed via steps. He considered that any advantage was offset by this layout and thus contended that no addition was appropriate.
21. Mrs Hodgson stated that the existing valuation was based on a rate of £800 pm<sup>2</sup> and reflected the evidence that had been available when the rating list was prepared. In reaching this assessment, the VO had been aware of the rental details in respect of all the properties detailed in the above schedule apart from 8 Parliament Row. Having now seen a copy of the lease relating to that transaction, she accepted that the evidence and analysis of the appellant was reasonable.
22. Having regard to the available evidence, Mrs Hodgson submitted that the evidence from no. 10 had been regarded as an outlier, out of step with the other rental evidence in the locality. Having regard to the overall 'basket of rents' and reflecting rising trends shown in rental values in the locality leading up to the AVD of 1 April 2015, she submitted that the adopted rate £800 pm<sup>2</sup> was fully supported.
23. Mrs Hodgson considered that the rental evidence in respect of no. 8 did not provide an accurate indication of rental levels in the area. The lease had been agreed on terms outside the provisions of the 1954 Law of Property Act and considered it to be depressed. She contended that greatest weight should be attached to the evidence from nos. 2 and 17 and argued that there was no significant difference between the two sides of Parliament Row.
24. Referring to the addition that had been made, Mrs Hodgson argued that the dual frontage was clearly a benefit to the property. Having visibility from and pedestrian access from two separate streets was clearly of value to a shop and she considered the 5% adjustment to be fully justified. On this basis she argued that the existing value was fully supported and did not accept that the appellant had demonstrated that the rateable value was excessive.

### **Decision and reasons**

25. 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 was 1 April 2015 (antecedent valuation date or AVD).
26. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 for this appeal.

27. The appeal hereditament is not subject to a rent, and therefore there is no direct rental evidence available.
28. The panel noted that the evidence put forward by the parties and the analysis detailed in the above schedule was not disputed. The essential difference between the parties in respect of the zone A rate to be adopted, related to the weight that should be applied to this evidence.
29. It was clear to the panel that the Valuation Officer had attached little, if any, weight to the rental details relating to nos. 8 and 10 Parliament Row. Whilst the details relating to 8 Parliament Row had not been available initially, the fact is that the VO did not attach any weight to it subsequently and had made no change to the rating list entry.
30. In considering the weight to be attached to the evidence, the panel had regard to the propositions detailed in *Lotus and Delta*. It found that the best evidence related to nos. 8 and 10 Parliament Row. These shops were in the same parade as the subject property and both properties had been let within 10 months of the AVD on new leases. The panel found a new lease to be a better guide to open market value than an assignment or a lease renewal.
31. Whilst 2 Parliament Row was in the same block as the subject property, the assignment of the lease, which had been analysed at £793.21 pm<sup>2</sup>, was almost three years before the valuation date and the specific location of the shop, with its very prominent position was considered significant and differentiated this property from the subject. For these reasons the panel attached less weight to this evidence.
32. Nos. 17 and 21 Parliament Row were not in the same parade as the subject property and, although the respondent had stated that there was not a significant difference between the two sides of Parliament Row, the evidence before the panel demonstrated otherwise. The evidence from 21 Parliament Row also related to a lease renewal and was from almost eight months post the AVD. The fact that it was a lease renewal, at a rental level reduced from £45,000 to £32,000, was noted by the panel and, although it was recognised that the period in question was not exactly the same, this did not support the assertion of Mrs Hodgson that rental values had been increasing from 2012.
33. Both parties had provided anecdotal evidence or made statements regarding market trends in this locality. The panel attached no weight to this evidence however given the lack of evidence in this respect put forward at the challenge stage of the appeals process.
34. The panel also noted that the later transaction relating to 8 Parliament Row had not been completed and was thus treated as such. It was also being considered two years post the valuation date and would have been of lesser value for this reason. However, it did provide an indication that the agreed rent in July 2014 was not at an unrealistic level.
35. Overall, the panel found that the appellant's representative had demonstrated that £800 pm<sup>2</sup> was excessive. The weight of evidence indicated that the evidence from 10 Parliament Row had not been an 'outlier' and reasonably

reflected rental values in this specific location. When this was considered alongside the totality of the evidence before it and having regard to the fact that the rent agreed on no. 8 (which had been agreed outside the terms of the 1954 Act), the panel determined that a zone A rate of £450 pm<sup>2</sup> was fair and reasonable.

36. The panel also found that no uplift was appropriate for the dual frontage. Whilst the panel accepted that such a feature is of benefit, at this particular property, the panel found that the benefit was offset by the differing levels and that this was a disadvantage which negated the benefit. No end adjustment was thus made.
37. Accordingly, based on a zone A rate of £450 pm<sup>2</sup>, the panel determined the assessment at £32,250 rateable value.

### **Order**

38. Under the provisions of regulation 38(4) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the entry in the rating list for the appeal hereditament to £32,250 RV, with effect from 1 April 2017.
39. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

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**Date: 22 November 2018**