

THE VALUATION TRIBUNAL FOR ENGLAND



*Summary of Decision: non-domestic rating appeal; Accuracy of Compiled list RV in 2017 Rating List; Shop and premises; comparables; appeal dismissed as the evidence showed that the existing valuation is not unreasonable.*

Re: 4 Fortune Buildings, Cowgate, Peterborough PE1 1LR

APPEAL NO: CHG000000065

BETWEEN:

*Mr S Khunti*

Appellant

and

*Mr Chris Sykes*

Respondent

*(Valuation Officer)*

BEFORE: Mr K Ford (Chairman) and Mr R Shah

SITTING AT: The Central Library, Cambridge

ON: 24 October 2018

APPEARANCES: Mr Sanjay Khunti (Appellant)

The Respondent Valuation Officer was represented by Ms Vania Lynch as advocate.

## Summary of Decision

1. The appeal is dismissed as the existing valuation is not unreasonable and the entry is confirmed at £18,000 Rateable Value with effect from 1 April 2017.

## Introduction

2. This was a 2017 Rating List appeal. The Rateable Value of the appeal hereditament was £18,000 from 1 April 2017. This was a compiled list appeal so the material day was also 1 April 2017. The appeal was made on 10 June 2018 against the Valuation Officer's (VO) Decision Notice of 10 November 2017 in respect of the appeal property (hereditament). The VO's decision was to treat the appellant's proposal as not well founded and the existing entry of £18,000 RV was originally deemed as correct.
3. Mr Khunti made known to the Tribunal his intention to appeal within the four month time frame and provided some information. However, due to the amount of information that is required from an appellant to make an appeal (the burden is on the ratepayer to provide all the evidence) the appeal documentation wasn't completed until 10 June 2018.
4. As the completed appeal had been made out of time the matter was referred to the President of The Valuation Tribunal for England who decided to extend the time the appellant could submit his completed appeal. A certificate to this effect was issued to the parties on the 18 June 2018.
5. The appeal property is a shop and premises situated within a parade of shops on Cowgate in Peterborough. It has an area of 57.9m<sup>2</sup> and is assessed on a zoned basis. The existing entry is based on a zone A price of £450 per m<sup>2</sup>. Mr Khunti was seeking a reduced entry of £11,999 Rateable Value. Areas and relativities were agreed.
6. The original caseworker for the VO at the challenge stage was not disclosed on the e mail communications from the Valuation Office Agency but the panel noted that Mr Khunti had responded to a Mr Harris. Ms Lynch had taken over the case, it appeared, at the appeal stage.

7. Prior to the hearing Ms Lynch had objected to the inclusion of evidence and the exclusion of evidence made at the appeal stage in the process. A notice was issued to the appellant and the Valuation Tribunal stating this on the 23 July 2018. As Mr Khunti had made no response to the objection the evidence in respect of 8 Queen Street and properties which had been granted a 12% end allowance for location was automatically excluded and the evidence of e mail communications on the 5 July 2017, 21 September 2018, 24 September 2018 and 20 November 2018 was included.
8. The panel accepted that the VO had acted in accordance with regulation 4 of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 (SI 2009 NO. 2269), as amended by SI 2017 No. 156 when supplying the rental evidence on which she would rely to the appellant. The rental evidence and the relevant form of return number having been sent to the appellant on the 12 October 2017.

(4) Information to which this paragraph applies shall not be used in any relevant proceedings by a billing authority, a LO or a VO unless—

(a) not less than two weeks' notice, specifying in relation to any information to be so used the documents or other media in or on which that information is held and the dwelling or hereditament to which it relates, has previously been given to every other party to the proceedings; and

(b) any person who has given not less than 24 hours' notice of his intention to do so has been permitted, at any reasonable time—

(i) to inspect the documents or other media in or on which such information is held; and

(ii) to make a copy (other than a photographic copy) of, or of any extract from, any document containing such information;

9. However, the panel was disappointed that no information had been provided to the appellant to explain that he was entitled to inspect the relevant forms of return and to request information on other rents to the number of properties as provided by the VO. It was contended by Ms Lynch that the regulations did not require the VO to inform appellants of this and therefore the VO had acted in accordance with the regulations. This may be so but the panel considered it unfavourable that an unrepresented ratepayer was not provided with the information and suffice to say, that for the new system to work all parties must engage with the process and comply with not only the letter, but also the spirit the law relating to openness and candour in the decision process of Check, Challenge and Appeal.

10. According to the challenge (dated 30 April 2017) the appeal property was leased at a rent of £15,000 from July 2014. The Appellant was seeking a reduction in rateable value (RV) to £11,999 from 1 April 2017. The Appellant challenged the assessment on the basis of the RV's of other similar shops in the vicinity and various end allowances granted to comparable properties. He also contended that the closure of the Crown post office in 2016 had resulted in a loss of trade due to the reduced footfall in the area.

11. To support his case Mr Khunti referred to the following comparable properties:-

11 Wentworth Street which measured 65.7m<sup>2</sup> with a zone A price of £140 per m<sup>2</sup> and a RV of £7,500

16 Cowgate which measured 29 m<sup>2</sup> with a zone A price of £450 per m<sup>2</sup> and a RV of £9,700

17 King Street which measured 84.7m<sup>2</sup> with a zone A price of £175 m<sup>2</sup> and a RV of £11,500 which included an addition for air conditioning

Unit 1, Laxton Square which measured 48.6m<sup>2</sup> with a zone A price of £225 per m<sup>2</sup> and a RV of £8,700

35 Cowgate which measured 152 m<sup>2</sup> with a zone A price of £275 per m<sup>2</sup> and a RV of £11,000

38 Cowgate which measured 73.4 m<sup>2</sup> with a zone A price of £300 per m<sup>2</sup> and a RV of £8,000 which included allowances of 5% for no car parking and 5% for no fire escape

42 Cowgate which measured 98.1 m<sup>2</sup> with a zone A price of £292.50 per m<sup>2</sup> and a RV of £12,000 which included a 5% end allowance for shape

2 Fortune Buildings which measured 54.2m<sup>2</sup> with a zone A price of £450 per m<sup>2</sup> and a rateable value of £17,500

3 Fortune Buildings which measured 47.1m<sup>2</sup> with a zone A price of £450 per m<sup>2</sup> and a rateable value of £ 15,750

5 Cowgate which measured 92.65m<sup>2</sup> with a zone A price of 3450 per m<sup>2</sup> and a RV of £17,750.

6 Queen Street Chambers which measured 80m<sup>2</sup> with a main space price for office use of £95 per m<sup>2</sup> and a RV of £7,300

12. Mr Khunti argued that the rent on his property was £15,000 and therefore the RV should reflect the rent paid with allowances made for the lack of car parking, no rear access, no air conditioning and no fire escape. The closure of the Post Office had also had an effect on the income of his business.

13. Ms Lynch relied on the rental evidence of comparable properties within the locality to defend the current RV in the list. The rental evidence for the 2017 Rating List was as follows:

Cowgate	Rent Date	Adjusted Rent £ pa	Analysed Rent	Zone A price
3 Fortune Buildings	19 May 2014	£16,950	£476.79	£450
4 Fortune Buildings	1 July 2014	£15,000	£373.97	£450
2 Fortune Buildings	1 October 2014	£22,800	£580.15	£450
8 Cowgate	1 November 2014	£21,499	£469.62	£450
4 Cowgate	17 August 2015	£21,239	£499.74	£450
7-9 Cowgate	01 November 2015	£44,000	£460.73	£450

14. Ms Lynch argued that the basket of rental evidence supported the zone A rate applied and that had it not been for the lower rent of the appeal property the price per m<sup>2</sup> for properties in the same parade would have been higher.

### **Decision and reasons**

15. 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).

16. 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.

17. The appeal hereditament has a rent on it. It has been a long held practice in rating that the starting point of any valuation is the rent on the appeal property. The closer the rent is to the AVD of 1 April 2015 and the statutory definition, the greater weight should be given to it. The appeal property is rented on full repairing and insuring terms at a figure of £15,000 per annum from 1 July 2014.
18. The rental evidence is best tested against rents of other properties in the area. As it is a shop the common practice is to use the zoning method to value. The rent on the appeal property devalues to £373.97 m<sup>2</sup> for zone A which is lower than the figure used in the RV. Five of the six comparable rents devalue to figures in excess of the £450 m<sup>2</sup> zone A used to value the appeal hereditament.
19. The panel gave greater weight to the evidence of the appeal property rent and those close by as provided by Ms Lynch, than the RVs of properties further along Cowgate or on other roads within the locality.
20. Having referred to the plan of the appeal property the panel did not find there to be any disability in regards to the shape and therefore determined that no allowance was warranted for an unusual shape.
21. The panel attached little weight to the comparable property at Suite 6 Queen Street Chambers as this was an office and therefore would be valued differently to a shop.
22. Whilst it appeared that end allowances had been granted to other properties for various disabilities the panel considered that in the subject appeal all those properties for which rents were available did not receive an end allowance for car parking, lack of fire escape or lack of rear access. Those properties with air conditioning had an addition added for this where it was known to the VO that it existed.

23. The panel carefully considered the comparable property at 5 Cowgate which was next door to the appeal property. This had been given an end allowance of 5% for non-standard frontage but the entrance was clearly set back from the parade which would account for this allowance whereas the appeal property did not suffer from the same disability.
24. The panel was mindful that it had to look at the economic circumstances as at 1 April 2015 but the matters referred to within schedule 6 of the Local Government Finance Act at the material day 1 April 2017.

The matters are—

- (a) matters affecting the physical state or physical enjoyment of the hereditament,
- (b) the mode or category of occupation of the hereditament,
- (c) the quantity of minerals or other substances in or extracted from the hereditament,
- [(cc) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,]
- (d) matters affecting the physical state of the locality in which the hereditament is situated or which, though not affecting the physical state of the locality, are nonetheless physically manifest there, and
- (e) the use or occupation of other premises situated in the locality of the hereditament.

25. Whilst Mr Khunti provided sales data from September 2014 to July 2017 to show the effect the closure had had on his takings the panel noted that the takings in April 2017 were not dissimilar to those in February 2016 and were higher than those between August 2014 and March 2015. No rental evidence had been provided to show that the closure of the post office would lead a hypothetical tenant to reduce his rental bid due to the loss of this amenity within the locality. Therefore the panel determined that no allowance should be granted due to the closure of the Crown Post Office.

26. Having examined all the evidence and arguments presented to it by the parties the panel considered the current rateable value of the appeal property at RV £18,000 to be fair and reasonable when looking at the rental evidence provided.

27. The appeal is therefore dismissed.

APPEAL NO: CHG000000065

**Date:** 6<sup>th</sup> November 2018