

3. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as it being overlooked by the panel.
4. The appeal property was the basement, ground and mezzanine floors of a modern four storey, mid terrace building, located to the south of Boar Lane and the main retail city centre shopping areas. New Station Street was a one way vehicular route from Boar Lane that passed Leeds railway station. Previously operating as a restaurant, the appeal property was currently a destination retailer of cycles and equipment and the neighbouring businesses were a bar, restaurant, hairdresser and mortgage broker,
5. At the hearing Mr Gott accepted evidence that the CCTV security system had been installed at the appeal premises after the material date of 19 October 2010, and he consequently removed it from his proposed valuation. The parties agreed that the address of the appeal property should be amended to show; 1-2 New Station Street, Leeds.
6. The panel made determinations on the admittance of additional evidence as they arose throughout the hearing, adopting the guidance provided by the Valuation Tribunal for England's Practice Statement A7-1 paragraphs 13 and 14; Mr Wood had sought to include:
 - i. References to the economic downturn; the panel admitted those observations and determined to give such weight to that evidence as it determined was appropriate.
 - ii. An additional five properties in a schedule of comparables that the Valuation Officer had been unaware of; which the panel determined constituted a surprise or ambush and they were not admitted.
 - iii. References to the resolution of 2005 rating list appeals against the assessment of the appeal property when it had been operating as a restaurant; again the panel determined that such evidence also constituted a surprise or ambush of the Valuation Officer's representative and were not admitted.

Issues

7. The issues in dispute related to the adopted tone of the list £/m² and whether any adjustments for access to the mezzanine floor; poor layout and solid shop frontage were warranted.

Evidence and Submissions

8. Mr Wood, for the appellant, provided the Panel with a bundle of evidence that included his reasoned case; copies of the original proposal and statements of cases; copies of the Valuation Officer's Regulation 17 notice; street and floor plans; photographs of the appeal and comparable properties. His proposed valuation had been based on the existing main space price of £200/m², with adjustments of 75% for the mezzanine floor; 5% for hard frontage and 5% for internal layout to a reduced rateable value of £63,000.
9. Mr Gott, for the Valuation Officer, provided a bundle that contained; a copy of the originating proposal; his reasoned case; comparable valuations; street plan; photographs of the appeal and comparable properties; and his proposed valuation adopting an increased basic space price of £250/m² to a revised assessment of £91,500 rateable value.

Decision and Reasons

10. The panel decided to allow the appeal in part by amending the rateable value with effect from 19 October 2010 to £69,500 for the following reasons;

11. The measured areas of the appeal property had been resolved at a joint site inspection, although the appellant's representative contended for a relativity of 25% of the main space price for the mezzanine area whereas the Valuation Officer's representative had valued it at the same price as the ground floor:

Ground floor sales area; 236.52 m²

Mezzanine sales area: 40.11 m²

Basement storage area: 169.28 m²

Air conditioning on 236.52 @ £7/m²

Total area: 445.91m²: VO ITMS = 361.27m²: Appellant's ITMS = 331.19m²

12. The panel first considered the matter of tone; the appeal property had been brought into the rating list as a shop and premises with effect from 19 October 2010 on the basis of an overall space price of £200/m². The appellant's representative had accepted that price and made no challenge against it in his statement of case.

13. Mr Gott's statement of case however had proposed increasing that basic space price to £250/m² based on comparison with;

Leeds Station Cycle Point – on the what he suggested was the 'wrong' side of New Station Street	Total area; 348.88m ² /ITMS 265.55m ² adopted main space price of £240/m ²
Unit A 34-39 Boar Lane	Total area; 179.70m ² /ITMS 179.70m ² Adopted main space price of £225/m ²
Unit B 34-39 Boar Lane	Total area; 243.23m ² /ITMS 243.23m ² Adopted main space price of £225/m ²

14. The Valuation Officer's representative told the Panel that these three properties were within 100 yards of the appeal property, on the periphery of the main retail area and were claimed to attract a poorer pedestrian flow than the subject property. Mr Gott argued that the appeal property, by comparison, had been under assessed at £200/m² and that the comparable evidence supported his contention for an increased price of £250/m².

15. Mindful of the principles set down in the case of *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 the panel looked at the rent passing on the subject property as the best starting point. The proposal dated 3 February 2011 showed the rent passing as £72,000. Mr Wood told the panel that rent had been agreed with effect from 13 September 2010; with a 9 month rent free period and an 'inducement to the tenant' of £105,000. He had amortised those inducements over a ten year term to an adjusted net effective rent of £56,100. The panel gave little weight to a rent agreed more than two years after the antecedent valuation date and that had required such considerable adjustments to be made to it in order to bring it into line with the rating hypothesis.

16. Although Regulation 17 evidence had been correctly served on the appellant, no schedule of the analysis of those eight rents had been provided to the Panel. It found little assistance was given by six of those rents that dated from 1979 to 2005, or from the one that was undated. The Panel found that No. 12 Boar Lane had been let with effect from February 2008 at £55,000 where the rateable value was £44,000; but the absence of any details relating to the size, type, character or adopted £/m² meant it was of little help.

17. The Panel made a finding of fact that there was insufficient substantive rental or factual evidence to demonstrate how the appeal property compared with the Cycle Point or with Units A or B at 34-39 Boar Lane in terms of character and size. In the absence of such supportive evidence Mr Gott's contention failed and the Panel held that the existing tone of £200/m² would remain unaltered.
18. Addressing the valuation of the mezzanine floor; photographs and floor plans showed that access was by a spiral staircase from the ground floor retail space and by another rear staircase. At the hearing Mr Gott had accepted that the mezzanine floor existed in the previous restaurant assessment and had not been a tenant's improvement installed by the appellant.
19. Mr Gott had adopted the same price for the mezzanine floor as the ground floor retail space; whereas Mr Wood had argued that it ought to be based on 25% of the ground floor retail space price. The Panel found that there was an element of disadvantage to any prospective tenant in having an area above the ground floor without the benefit of an escalator or lift access, whether it was used for retail or as a restaurant, since it was not so accessible as the ground floor space. The Panel considered the appeal property as if it were vacant and to let. No evidence for an allowance greater than the 50% adopted for the basement had been provided. Mr Wood told the Panel that the previously adopted allowance had been 50% and the Panel made a finding of fact that reduction adequately reflected the disadvantages of access to the mezzanine floor.
20. The appellant's representative's argued for a 5% discount for the structural brick piers contended to mask 45% of the shop frontage. In that matter, the Panel held that photographs showed that the subject property had three large windows from pavement level up to the mezzanine floor. Although there were two brick pillars between the windows the Panel found that they were in no way similar to the disadvantages of the hard frontage of the bank property at Vicar Lane where 2½% allowance had been adopted. On that issue the appellant's representative's argument failed.
21. Mr Wood had also argued for a 5% discount to reflect the configuration of the ground floor "U" shaped retail space around the stairs that resulted in a shallow sales area in part of the front of the shop and a masked area to the rear. The Panel found that allowance was not supported by evidence of similar adjustments elsewhere and that the adopted main space price already accommodated the layout of the property; consequently no further adjustments were required.
22. Accordingly, the panel determined the appeal as follows:

1-2 New Station Street		
Ground floor Sales	236.52m ² @ £200/m ²	£47,304
Mezzanine	40.11m ² @ £100/m ²	£4,011
Basement storage	169.28m ² @ £100/m ²	<u>£16,928</u>
Sub total		£68,243
Air conditioning	236.52m ² @ £7/m ²	<u>£1,655</u>
Total		£69,898
Say Rateable Value		£69,500

Order

- 23.** Under the provisions of Regulations 38 (4) and (9) 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 address and reduce the rateable value of 1-2 New Station Street, Leeds, LS1 6HW from rateable value £78,000 to rateable value £69,500 with effect from 19 October 2010. The Valuation Officer must comply with this order within two weeks of the date of its making.

Date: 4 September 2013

Appeal number: 472017971344/538N10