UPPER TRIBUNAL (LANDS CHAMBER)

Neutral Citation Number: [2016] UKUT 328 (LC)
UTLC Case No: RA/3/2016

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RATING – alteration of rating list – valuation – restaurant – rental value – adjustment for lower level seating area – end allowance – effect of tenant's improvements – rateable value determined at £170,000 – appeal allowed in part

IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE VALUATION TRIBUNAL FOR ENGLAND

BETWEEN:

MASALA ZONE LIMITED **Appellant**

and

CHARLES GOLDING (VALUATION OFFICER) **Respondent**

Re: 9 Marshall Street,
London
W1F 7EJ

Before: A J Trott FRICS
on
6 July 2016

Sitting at: Royal Courts of Justice, London WC2A 2LL

Clive Moys, instructed by Winbourne Martin French, Chartered Surveyors, for the appellant
The respondent appeared in person

The following cases are referred to in this decision:

Lotus & Delta Limited v Culverwell (VO) and Leicester City Council [1976] RA 141
Lamb (VO) v Go Outdoors Limited [2015] RA 475
Marks (Trustees of TN Marks, Deceased) v Grose (VO) [1995] RA 49
Turner v Murdoch (VO) [2015] UKUT 0493 (LC)

The following cases were also referred to in argument:

Scottish & Newcastle Retail Ltd v Williams (VO) [2000] RA 119
Edma (Jewellers) Ltd v Moore (VO) [1975] RA 343
Garton v Hunter (VO) [1969] RA 11

DECISION

Introduction

1. This is an appeal by the ratepayer, Masala Zone Limited, against a decision of the Valuation Tribunal for England ("VTE") dated 18 December 2015 confirming the rateable value of the restaurant and premises, 9 Marshall Street, London W1F 7EJ in the compiled non-domestic rating list at £187,000 with effect from 1 April 2010.

2. The appeal was heard under the Tribunal's simplified procedure.

3. Mr Clive Moys of counsel appeared for the appellant and called Mr James Winbourne BSc, PG Dip PVL, MRICS, Managing Director of Winbourne Martin French, Chartered Surveyors, as an expert valuation witness.

4. The respondent valuation officer, Mr Charles Golding MRICS, appeared in person.

5. I made an accompanied inspection of the property on 8 July 2016 and made an unaccompanied inspection of relevant comparable properties on 7 and 8 July 2016.

Facts

6. I obtain the following facts from the parties' agreed statement of facts, the evidence and my site inspection.

7. Marshall Street runs parallel to, and to the east of, Carnaby Street in the western part of the Soho district of London. The appeal property lies opposite the eastern end of Ganton Street midway between Foubert's Place to the north and Broadwick Street to the south. Marshall Street continues southwards until its junction with Beak Street. This places the appeal property towards the eastern end of the area known as Carnaby which is bound by Kingly Street to the west, Great Marlborough Street to the north, Beak Street to the south and Poland Street to the east.

8. 9 Marshall Street forms part of a 1960s development dominated by a high-rise residential block known as William Blake House, the entrance steps to which lie immediately to the south. The appeal property comprises the ground floor of a two-storey part of the development and is flanked by two shops to the north and by another shop to the south of the entrance steps. Opposite the appeal property, on the western side of Marshall Street, is the unbroken concrete façade of National Magazine House, some three-storeys high, extending southwards from Ganton Street to Broadwick Street. There is rear access to the appeal property from a service yard in Dufours Place.

9. At the material day (1 April 2010) the front of the appeal property was used for restaurant seating at two levels. There was an L-shaped area, of some 112m^2, including the window frontage to Marshall Street, at ground floor level with two sets of five steps leading to a lower area comprising some 91.5m^2 set further back from the frontage.

10. In 2015 the appellant undertook works to the property including raising the floor of part of the lower seating area, reconfiguring the kitchen and ancillary areas and moving the entrance further to the north.

11. The parties have agreed that the area of the appeal property is 437.38m^2, comprising the restaurant space and 233.53m^2 of various ancillary accommodation including kitchen, food preparation and storage areas. The parties also agree that the ancillary space should be valued at 50% of the value in terms of main space ("ITMS").

12. In 2000 the appellant took an assignment of a 20 year lease of the appeal property dated 27 September 1989 between the City of Westminster and Cranks Limited. The commencement date of the term was 24 June 1988. The rent was reviewed to £135,000 with effect from 24 June 2003. Shortly before the hearing Mr Winbourne adduced a rent review memorandum dated 15 February 2010 which recorded that the rent had been reviewed on the last day of the term (23 June 2008) to £155,000. The parties also entered into a new 20 year lease of the appeal property on 15 February 2010, commencing on 14 August 2009 at a rent of £155,000.

Issues

13. There are four valuation issues:

(i) The ITMS rate. The appellant says £500 per m^2, the respondent says £600 per m^2.

(ii) The relativity for the lower level restaurant space. The appellant says 66%, the respondent says 75%.

(iii) The end allowance for layout. The appellant says 7.5%, the respondent says 5%.

(iv) Whether the rent passing on the appeal property should be adjusted for tenant's improvements. The appellant says no adjustment should be made. The respondent says the passing rent should be increased by 10%.

Issue (i): the ITMS Rate

Evidence and Submissions

14. Mr Winbourne amended his evidence following the late discovery of the rent review memorandum dated 15 February 2010 which fixed the rent on the last day of the 1989 lease (23 June 2008) at £155,000. Given the proximity of this review to the antecedent valuation date ("AVD") of 1 April 2008 Mr Winbourne took this rent as indicative of the rental value at the AVD and gave weight to it. This effectively meant that the part of his evidence concerned with the changes in rental value between the AVD and the start of the new lease in August 2009 were redundant.

15. Mr Winbourne devalued the passing rent of £155,000 by using the same relativities (66% for the lower level restaurant space and 50% for ancillary space) and end allowance (7.5%) as had been adopted by the VO in the 2000 list and carried forward into the 2005 list. He made no adjustment for tenant's improvements. This gave a rate of £580 per m^2 ITMS (although Mr Winbourne refers to £587 per m^2 in his report).

16. In his expert report Mr Winbourne compared the tone of the 2010 list for the streets where comparable assessments had been identified. He noted that Marshall Street had one of the lowest ITMS rates even if one took the rate of £700 per m^2 adopted by the VTE; a figure no longer spoken to by Mr Golding. Mr Winbourne felt the low rate was due to the position of the property in a backwater street with little passing trade together with its location as part of what he considered to be an ugly, brutalist 1960s building with a direct view of a blank concrete wall opposite.

17. Mr Winbourne relied in particular upon a decision of the VTE concerning a basement and ground floor restaurant at 12-26 Lexington Street in which the Tribunal held that a rate of £500 per m^2 ITMS was appropriate due to its size (414m^2), unusual layout (ground floor kitchen with a restaurant and ancillary accommodation in the basement) and off-pitch location at the southern end of Lexington Street. Mr Winbourne considered that similar factors applied to the valuation of the appeal property.

18. Mr Winbourne also cited an appeal at 1-2 Bedfordbury where the VTE reduced the ITMS rate on the compiled list assessment from £900 per m^2 to £620 per m^2 because of its location away from the main pedestrian flow and its lack of visibility.

19. Mr Winbourne was personally involved in another rating appeal on behalf of Masala Zone Limited at 48-51 Floral Street, London WC2 where he agreed a reduction in the rate ITMS from £1,000 per m^2 in the 2010 compiled list to £850 per m^2 to reflect the poor location opposite the dead frontage of the side wall of the Royal Opera House between James Street and Bow Street.

20. Mr Golding thought that the passing rent fixed on review in June 2008 was an appropriate starting point but was not the whole story. The rent was fixed with effect from the last day of the 1989 lease term and was an interim rent agreed retrospectively in February 2010, at the same time as a new lease was entered into. The details of the negotiations were not known and Mr Golding considered that the passing rent did not reflect the hypothetical lease terms.

21. Mr Golding placed weight upon a number of comparable assessments in the Carnaby area, within a short radius of the appeal property, which showed a range of tone values from £750 per m^2 in Broadwick Street; £850 per m^2 in Ganton Street, Beak Street and Kingly Street to £1,000 per m^2 at 36 Great Marlborough Street. Mr Golding acknowledged that none of his comparables reflected the appeal property's inferior location and accordingly he adopted a lower ITMS rate of £600 per m^2 which was 20% less than the next highest tone figure in the Carnaby area.

Discussion and Conclusion

22. In *Lotus & Delta Limited v Culverwell (VO) and Leicester City Council* [1976] RA 141 the Tribunal, Mr J H Emlyn Jones FRICS, found at 153 that the relevant authorities had established a number of propositions of which the first was:

> "Where the hereditament which is the subject of consideration is actually let that rent should be taken as a starting point."

In this appeal there was evidence of a last day rent review upon the expiry of the term of the 1989 lease on 23 June 2008. Mr Winbourne gave this review significant weight as being reflective of the value as at the AVD. Mr Winbourne said during cross-examination that in his expert view, in the light of the rent review memorandum, the rateable value of the appeal property was £155,000.

23. Mr Golding was more circumspect and noted that this was an interim rent agreed retrospectively with the rent review memorandum being completed on 15 February 2010, the same day as the new lease of the appeal property was entered into. Although he gave the review weight he also placed weight upon comparable assessments in the Carnaby area of Soho.

24. The analysis of this passing rent depends upon the values adopted for the lower restaurant space, the end allowance and whether there should be an adjustment for improvements. Mr Winbourne's analysis gave a rate ITMS of £580 per m^2 - see paragraph 15 above. My analysis of the passing rent using Mr Winbourne's variables gives an ITMS rate of £579 per m^2 or £574 per m^2 when adjusted for the agreed air conditioning allowance of £1,427. An analysis of the passing rent using Mr Golding's 10% upward adjustment to reflect the statutory lease terms, a relativity of 75% for the lower level restaurant space and an end allowance of 5% produces an ITMS rate of £598 per m^2. So whichever approach is taken to the remaining three issues in dispute in this appeal it is evident, based on the passing rent, that the value ITMS (£574-£598 per m^2) is well above the figure of £500 per m^2 adopted by Mr Winbourne in his expert report.

25. Mr Winbourne's figure is derived from the rate determined by the VTE in an appeal concerning the basement and ground floor of 12-26 Lexington Street, a property located some 50m south of the junction of Lexington Street with Beak Street and some 250m walking distance southeast of the appeal property. This part of Lexington Street is a narrow one-way street in predominantly office use today. 12-26 Lexington Street was described by the VTE as a 1940s/1950s purpose built refurbished office building with office accommodation on the four upper floors. At the AVD it was occupied by Wagamama as a basement restaurant with kitchens at ground floor level. The VTE noted that it was let on FRI terms with a user clause for either a high class restaurant or

offices. The rent review clause certified that the premises could be valued for either use. At the time of my inspection the property had reverted to office use.

26. In my opinion 12-26 Lexington Street is not a good comparable to the appeal property. It is located in a different, predominately office, environment, had an unusual layout with basement restaurant space, poor street visibility and was more remote than the appeal property from what the VTE described as "the Soho restaurant area".

27. I prefer Mr Golding's reliance on comparable assessments which focus upon the Carnaby area of Soho of which Marshall Street forms a part. Mr Golding fairly accepted that these comparables were in better locations than the appeal property which is situated towards the east of the Carnaby area with relatively low pedestrian footfall, forms part of an unattractive 1960s development and overlooks a three-storey high concrete wall. The tone of the comparables ranges from £750 per m^2 to £1,000 per m^2 and has an average of £829 per m^2. (Mr Golding also included three restaurants in his analysis where he adjusted the tone rate because the hereditaments are currently valued by the zoning method. The average ITMS rate if these are included as comparables is £842 per m^2.) Mr Golding accepts that in the light of the evidence the £700 per m^2 determined by the VTE is not sustainable and should be reduced. He adopts a figure of £600 per m^2 which is 20% less than the lowest of the comparable assessments and is broadly supported by the actual rent passing on review.

28. I consider that Mr Winbourne has exaggerated the remoteness of the appeal property's location given that it is clearly within the Carnaby area and is just visible at the eastern end of Ganton Street. I do not consider it to be as badly located as 12-26 Lexington Street. In my opinion an ITMS rate of £600 per m^2 is an appropriate figure which fairly reflects the disadvantages of the appeal property's location.

Issue (ii): the relativity of the lower restaurant space

Evidence and Submissions

29. Mr Winbourne said that the relativity of 66% was adopted by the VO in the 2000 list and was carried through into the 2005 list. He considered this to be a reasonable allowance for the disadvantage of having some 45% of the restaurant seating area at a level five steps below the ground floor restaurant space. Since the material day the appellant had partially raised some of this lower area but there was nothing to justify any change to the allowance previously accepted by the VO and which reflected the appeal property *rebus sic stantibus* at the material day. Mr Winbourne said the lower ground floor had little natural light and was obscured in part by the structure of the steps leading up to William Blake House above. It was equivalent to basement accommodation and "does not have the feel of a ground floor restaurant".

30. Mr Golding said that one should not blindly follow the adopted allowances in previous lists and referred to the rejection by the Tribunal, Mr P D McCrea FRICS, of a comparison between lists in *Lamb (VO) v Go Outdoors Limited* [2015] RA 475 at para 82. Reviewing the issue afresh Mr

Golding thought that the relativity of 0.66 for the lower restaurant seating area showed an insufficient margin above the relativity of 0.5 that had been agreed for kitchen and other ancillary space. He distinguished the lower level space from basement accommodation and said that instead it was analogous to a mezzanine to which the Valuation Office Agency ("VOA") gave a value of 0.75 in its published relativity scales.

Discussion and Conclusion

31. I distinguish Mr Winbourne's reliance upon the use of the relativity of 0.66 for the lower restaurant area in the previous two lists from the decision in *Lamb v Go Outdoors Limited.* In that appeal the Tribunal did not accept on the facts that any weight should be placed upon a comparison between two rating lists in circumstances where what was being compared was the rateable value of a number of assessments between the 2005 and 2010 lists. The appellant argued that there was a presumption that the value of a hereditament would not increase or decrease to an extent that was out of line with similar hereditaments. But the Tribunal held that any such presumption of uniformity of change was rebutted by the evidence. That is not the same as the appellant's argument in this appeal where Mr Winbourne said that there had been no change to the appeal property, or in the market, which would justify an increase in the relativity adopted by the VO in the last two rating lists.

32. Mr Golding's argument that a relativity of 0.66 was not sufficiently above the relativity of 0.5 for kitchen and ancillary space was an argument that could have been made, but was not, for the previous two lists. Nothing changed between the three lists (2000, 2005 and 2010) in respect of the lower restaurant area. It was not until 2015 that it was reconfigured and approximately half of the space was raised (although still not as high as the upper restaurant level). Mr Golding produced no evidence of other assessments where a relativity of 0.75 had been applied to this type of restaurant accommodation. He relied upon the VOA's restaurant relativity scales and applied the scale appropriate to a mezzanine. Mr Moys argued that this was, by definition, incorrect: a mezzanine, he said, was an intermediate storey between the ground and first floors. In my opinion the key element of the definition is that a mezzanine is low storey *between* two others in a building. The lower restaurant area in the appeal property, as it was at the material day, was not between storeys and cannot, in my opinion, properly be described as a mezzanine. Neither expert suggested that it was equivalent to basement accommodation.

33. The lower restaurant area was five steps below the upper restaurant area (Marshall Street ground level). Part of the lower area was hidden behind the structure forming the external steps leading to the entrance of William Blake House. On balance I am not persuaded that the previously adopted relativity of 0.66 is too low and I continue to adopt it.

Issue (iii): the end allowance for layout

Evidence and Submissions

34. Mr Winbourne said that the 7.5% end allowance for layout had been adopted by the VO in the 2000 list and carried forward in the 2005 list. In the absence of any changes to the property at the material day he continued to adopt that figure in this appeal. He did not think there was any double counting between his relativity of 0.66 for the lower restaurant area and the end allowance of 7.5% for layout. The calculation of an end allowance involved looking at the hereditament as a whole and reflecting its cumulative disadvantages.

35. Mr Golding considered that to allow an end allowance for layout as well as a relativity for the lower restaurant space was to double count. He pointed out that none of the comparable assessments upon which he relied made any separate end allowance for layout although many of them had basement and/or first floor restaurant space. He thought that, in effect, the allowance for layout was built into the tone rate and the adopted relativities. The only comparable with an end allowance was Mr Winbourne's preferred comparable at 12-26 Lexington Street where the VTE had allowed an end allowance of 5.35% for an "isolated unit". Mr Golding said it could be argued that the end allowance should be disallowed altogether but should certainly be reduced from 7.5% to 5%.

Discussion and Conclusion

36. I agree with Mr Golding that to allow 7.5% for layout is an anomaly compared with the comparable assessments only one of which, 12-26 Lexington Street (upon which Mr Golding did not rely), has an end allowance for being an isolated unit (rather than for layout). Seven of the other 14 comparables had basement or first floor restaurant space but none of them had any end allowance for layout. At the material day the lower level restaurant in the appeal property made up 45% of the total restaurant space. Equivalent percentages for those comparable assessments in the Carnaby area which had split level restaurants ranged from 20% to 81% (basement and/or first floor accommodation) and averaged 50%.

37. The only aspect of layout that was expressed by the appellant to be of concern was the lower level restaurant space part of which was said to have been obscured by the structure of the external steps leading to William Blake House. This disability has already been reflected in the relativity of 0.66 which I have accepted to be appropriate. In my opinion an end allowance should only be made for disabilities affecting the rental value of a hereditament as a whole and not accounted for elsewhere. I consider that the disability of the split level ground floor restaurant in the appeal property has been allowed for in the ITMS rate (based as it is in part upon comparables with mixed ground floor and basement level restaurant space) and specifically in the adopted relativity of 0.66. These circumstances are similar to those in *Marks (Trustees of TN Marks, Deceased) v Grose (VO)* [1995] RA 49, an appeal also involving a restaurant. The Tribunal, Mr T Hoyes FRICS, said at 66:

> "In his devaluation Mr Marks [for the Appellants] sought a 10% allowance for a number of perceived disabilities and/or attributes regarded as peculiar and detrimental to the rental value

of the appeal hereditament. I have already found that some of the factors are present in other hereditaments and to an extent are reflected in basic rental values. Others are allowed for in the individual detailed valuations by virtue of flexibility in determining the 'relativities' to be adopted, examples are the presence of steps and significant depth to the remaining areas, etc. In this appeal 'the relativities' are accepted as agreed and they are incorporated into the valuation by the valuation officer, thus the disabilities are reflected in that valuation and I would not seek to disturb them."

38. Mr Golding said in answer to my questions at the hearing that it could be argued that the end allowance should be removed altogether since it was double counting. In the event he decided to reduce the end allowance to 5%. I have considered whether the adopted ITMS rate and the relativity of 0.66 on the lower restaurant area are sufficient to reflect any disadvantages of the appeal property. There is nothing particularly unusual or onerous about the overall layout of the property which at the material day, apart from the split floor level, was of fairly regular shape and configuration. It also has the benefit of a rear service yard with direct access to the kitchen and food preparation areas. But as a result of the lower level seating area the ground floor restaurant was configured in an L-shape with a narrow arm running along the street frontage. This, together with the presence of two sets of steps, restricted the layout of the upper seating area in a way which I consider was disadvantageous to the occupier and which was not specifically allowed for in the valuation. That being so, and given that the VO made an end allowance in the previous two lists and that Mr Golding continues to do so in this appeal, albeit at a reduced amount, I would make a nominal end allowance of 2.5% for layout.

Issue (iv): whether the passing rent should be adjusted for tenant's improvements

Evidence and Submissions

39. Mr Winbourne said that it was wrong to treat the passing rent fixed on review as having been agreed on a shell basis. The appeal property had been let to Cranks in 1967 and any discount to reflect a shell fit-out would have been lost after 21 years or upon lease expiry. Mr Winbourne said that it was his experience that restaurant tenants would strip back the premises before fitting out to their own corporate requirements and therefore shell discounts rarely formed part of rent review or lease renewal negotiations unless the property was unfinished or required conversion.

40. Any hypothetical tenant in the market for the subject restaurant would have spent money to put their own stamp on the property. No adjustment to the passing rent was therefore appropriate because every hypothetical tenant would adapt the property to their own style and any previous improvements would not add value to the market. Upon taking an assignment of the 1989 lease in 2000 the appellant has spent £1m to fit out the appeal property and had stripped it back to a shell and refitted everything.

41. Mr Golding acknowledged that some of the appellant's fitting out works would only be of value to the appellant as the current occupier and that such corporate branding would have no market value under the rating hypothesis. But he considered that some of the tenant's other works, such as specialist kitchen finishes, plant, lighting, wall, ceiling and floor finishes would have been useful to the

hypothetical tenant. In addition to the £1m of expenditure identified by the appellant in its form of return Mr Golding said that further improvements had been made such as the installation of air conditioning and improved air extraction as well as by moving part of the glass frontage forwards to the building line. The value of such improvements fell to be disregarded under the terms of the 1989 lease and, by virtue of section 34 of the Landlord and Tenant Act 1954, the 2009 lease and therefore the passing rent on review of £155,000 needed to be increased to bring such rent in line with the statutory rating hypothesis.

42. In his statement of case Mr Golding assumed that tenant's improvements would uplift the passing rent of £155,000 by 20% to £186,000. In his expert report he amended this figure to 10% (£170,500). In response to the accusation that he had "reverse engineered" the figure to suit his revised adopted ITMS rate of £600 per m^2 Mr Golding said that he had changed his opinion having seen a copy of the new 2009 lease, inspected the appeal property, reflected on the comparables and discussed the case with Mr Winbourne.

Discussion and Conclusion

43. There is scant evidence about the nature and extent of the appellant's fitting out and/or improvement works. Mr Winbourne said that the figure of £1m was a rough estimate that had been confirmed by his client but there was no detailed breakdown of this expenditure. The appellant's case is that none of such expenditure constituted tenant's improvements which would sound in an increased market value for the appeal property and a hypothetical tenant, fresh to the scene, would pay nothing for them. Mr Golding disagrees and (now) says that the hypothetical tenant would pay 10% above the passing rent of £155,000 for the benefit of whatever tenant's improvement there may be and which were disregarded in fixing the rent on review and on the new lease.

44. Mr Moys referred to *Turner v Murdoch (VO)* [2015] UKUT 0493 (LC) in which the Tribunal, Mr P D McCrea FRICS, rejected the VO's adjustment of 20% to reflect the fit-out costs of a restaurant and dismissed the method as being "a fairly rushed, broad brush approach". Mr Moys said that Mr Golding's approach should be rejected for the same reason. But in *Turner* at least some of the Tribunal's reservations arose from the fact that it was questionable whether the relevant comparable had been let as a shell unit since there was evidence that the landlord had fitted out the property.

45. I do not accept Mr Winbourne's view that the improvements undertaken by the appellant should be ignored as having added no value to a hypothetical tenant. But I accept that some of the expenditure is likely to have been concerned with producing a corporate house-style that is of no interest to any other incoming occupier and would therefore command no value in the market other than a possible over bid from the appellant who would themselves be a hypothetical tenant. Any expenditure on tenant's fixtures and fittings should be ignored in any event as not being rateable.

46. I am faced with the difficulty that there are no details of the £1m expenditure said to have been spent by the appellant when taking an assignment of the 1989 lease in 2000. This amount appeared in the form of return and was confirmed by Mr Winbourne. Mr Golding has attempted to provide a

rough analysis of the expenditure and to identify other items of improvement that have been made subsequently. Inevitably under these circumstances his adjustment of 10% appears to be arbitrary, especially since he has halved it since preparing his statement of case. Mr Golding says that the adjustment is an informed estimate and was revised in the light of relevant new information being made available to him.

47. In my opinion an allowance of 10% would be the maximum and I think Mr Golding was right to reduce his original estimate. But ultimately it seems unnecessary for me to determine the point more precisely. If one analyses the passing rent of £155,000 according to the assumptions made by each expert the result is £574 per m^2 (Mr Winbourne) or £598 per m^2 (Mr Golding) – see paragraph 24 above. These figures provide support for Mr Golding's adopted ITMS rate of £600 per m^2 which he derived from an analysis of comparable assessments in the Carnaby area and which I have accepted.

48. It was suggested that Mr Golding had reverse-engineered his allowance for tenant's improvements in order to produce the figure that he wanted. Analysing the passing rent assuming, as Mr Winbourne does, no adjustment for improvements but retaining Mr Golding's relativity of 0.75 for the lower level restaurant space and his end allowance of 5%, gives a rate of £543 per m^2; still well above Mr Winbourne's figure of £500 per m^2. As I have said earlier I do not accept Mr Winbourne's assertion that there will be no value to an incoming hypothetical tenant of at least some of the appellant's expenditure of £1m.

Determination

49. I have determined that the ITMS rate of the appeal property is £600 per m^2, the relativity of the lower level restaurant space is 0.66 and that there should be an end allowance of 2.5%. Having regard to the foregoing my valuation of the appeal property is as follows (using the property description in the compiled list):

Ref	Floor	Description	Area m2/unit	£m2/unit	Values
1	Ground	Retail area (upper level)	112.34	600.00	£67,404
2	Ground	Retail area (lower level)	91.51	396.00	£36,238
3	Ground	Food preparation area	161.79	300.00	£48,537
4	Ground	Internal storage	2.55	300.00	£ 765
5	Ground	Locker room	5.25	300.00	£ 1,575
6	Ground	Public Toilets	11.78	300.00	£ 3,534
7	Ground	Kitchen	26.25	300.00	£ 7,875
8	Ground	Internal storage	4.78	300.00	£ 1,434
9	Ground	Office	7.77	300.00	£ 2,331
10	Ground	Internal storage	6.69	300.00	£ 2,007
11	Ground	Office	6.67	300.00	£ 2,001
		Total area	437.38		£173,701
		Air conditioning	203.85	7.00	£ 1,427
		Total value			£175,128
		Less 2.5% for layout			£ 4,378
					£170,750
				Rounded to:	£170,000

50. I therefore allow the appeal in part and determine the rateable value of the appeal property at £170,000 with effect from 1 April 2010.

51. The appeal was heard under the simplified procedure which is not a procedure under which costs are normally awarded unless either party has behaved unreasonably or the circumstances are in some other respect exceptional. Neither party suggested that there had been unreasonable behaviour or identified any exceptional circumstances and I therefore make no order as to costs.

Dated 18 July 2016

A J Trott FRICS