

**Insights**

# **BUSINESS RATES: DECISIONS ABOUT MATERIAL CHANGES OF CIRCUMSTANCES “IN THE LOCALITY”**

Sep 10, 2024

## **SUMMARY**

The Valuation Tribunal recently considered the impact of the Rushden Lakes Shopping Centre in Northamptonshire on rental and hence rateable values in neighbouring towns. The opening of the Centre had adversely impacted footfall and revenue in those towns. Some ratepayers claimed that the operation of the Centre constituted a material change of circumstances (MCC) “in the locality”, which should reduce their business rates liability. It was not in dispute that their businesses had been impacted by the Centre. The VTE had to consider the meaning and extent of “locality” for the purpose of establishing whether there were MCCs.

Here is the history of the Rushden Lakes Shopping Centre, a shopping, entertainment and leisure destination within striking distance of Corby, Kettering, Northampton Wellingborough and, of course, Rushden

<b>Date</b>	<b>Event</b>
July 2017	Opening of Rushden Lakes Shopping Centre - 380,000 sq. feet
23 July 2017	Effective date sought by Kettering ratepayer
June 2019	Completion of Phase 2; another 170,000 sq. feet - total 550,000 sq. ft

Ratepayers represented in shopping locations in four of those towns contended that the opening and further expansion of Rushden Lakes Shopping Centre had driven footfall and revenue away from the surrounding town centres. The ratepayers said that this constituted an MCC for the purpose of assessing business rates, the effect of which should be reflected in an end allowance for each of the subject assessments.

Those assessment were:

a. Kettering and Corby:

- Two branches of Barclays;
- Two Poundland Units.

b. Wellingborough:

- A Barclays branch, a National Westminster Bank branch and a Poundland unit with five units whose ratepayer was a property company.

c. Northampton:

- A Barclays branch, a Telefonica unit and a Poundland unit.

Proposals were made on grounds that the list entries were inaccurate as a result of an MCC in the locality. The VO decided that the proposals were not well-founded.

The grounds of all eight appeals were that the assessments did not reflect the effects of the opening of the Centre in 2017 and its expansion in 2019. At each material day, the Centre was in its extended state.

The Kettering and Corby appeals were the first to be heard and to receive a VTE decision. The MCC relied upon was that there were 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.

This led to the legal question; what constituted the "locality" for the purposes of proving this category of MCC?

The VO Rating Manual noted that locality is an imprecise term; the extent of the locality is determined by the facts of each case. In the Kettering appeals, the VO's counsel contended that the Centre was outside the locality of the appeal properties; that locality meant the vicinity or the neighbourhood that was within reasonable walking distance of the appeal properties. The VTE rejected that approach as we no longer live in the Middle Ages when towns and cities were much smaller than they are today and when people seldom travelled beyond their immediate local area on a regular basis. The VTE held that a more purposive approach was required. Whether a new shopping centre falls within the same locality as the appeal properties will depend on the facts. Here, the appeal properties did fall within the same locality.

A week after that decision was published the Wellingborough appeals were heard. The same counsel appeared for the VO and he ran the same arguments. The VTE was not impressed and

found the Kettering and Corby decision compelling. This second panel followed the thinking and conclusions of the first panel.

Three days after the Wellingborough decision was published, the Northampton appeals were heard by the VTE President, Gary Garland. On this occasion, the VO produced a statement which said that it was not accepted that the appeal properties in any of the appeals were in the same locality as the Centre.

The President gave his blessing to the decisions of the previous two panels and went on to find in favour of the ratepayers.

Here is a summary of the outcomes

<b>Date of decision (2024)</b>	<b>Appeal properties</b>	<b>VTE chair</b>	<b>Distance from Rushden Lakes</b>	<b>End allowance</b>
5 June	Kettering	Steven Levy	12 miles	5%
5 June	Corby	Steven Levy	20 miles	Nil - appeal dismissed
24 June	Wellingborough	Penni and Punia	5 to 6 miles	10%
1 July	Northampton	Gary Garland	15 miles	7.5%

## COMMENT

The VO is not appealing these decisions. The question whether a relevant matter has occurred in the locality of an appeal hereditament is a “jury question”; a question of fact rather than a matter of hard and fast rules.

## RELATED PRACTICE AREAS

- Real Estate Disputes

## MEET THE TEAM



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