

THE VALUATION TRIBUNAL FOR ENGLAND



Summary of Decision: Non-domestic rating appeal; Accuracy of Compiled list RV in 2017 Rating List; Offices & Premises; Price per m² to be adopted; Comparable evidence; Historic entry; Appeal allowed

Re: 1st Flr, 9 Devereux Court, London WC2R 3JJ

APPEAL NO: CHG10030856

BETWEEN:	Sally Henry	Appellant
	And	
	A Ricketts	
	(Valuation Officer)	Respondent

PANEL: Mr A Ramsay (Senior Member)
Mr P Phelps

CLERK: Mr G Wayman

REMOTE HEARING: 13 September 2021

APPEARANCES:

Mr A Bacon of City Surveyors Ltd representing the appellant
The Respondent Valuation Officer was represented by Mr C Cates (Advocate only)
And Mr R Shaw (Advocate and Expert Witness)

Summary of Decision

1. The appeal is allowed and the panel confirms a revised RV of £52,500 with effect from 1 April 2017.

Introduction

2. This was a 2017 Rating List appeal. The Rateable Value (RV) of the appeal hereditament was originally £81,000 from 1 April 2017, with a description of Offices and Premises. This was a compiled list appeal so the material day was also 1 April 2017. The appeal was made on 6 January 2020 against the Valuation Officer's (VO) Decision Notice of 5 September 2019 in respect of the appeal property (hereditament) and the RV of £81,000. The VO's decision was to treat the appellant's proposal as not well founded and the entry of £81,000 RV was deemed as correct.
3. The panel was informed that the appeal property was a 1950s building located close to Inns Court which is a desirable area for the legal profession.
4. Mr Bacon appeared on behalf of the appellant as both advocate and expert witness. In view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Bacon's declaration of truth included a statement that he was instructed under a conditional fee arrangement.
5. Mr Bacon in his declaration declared that he understood and accepted that his duty was 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 the client's case.
6. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was 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).
7. The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.
8. This document is not intended as a verbatim report of the proceedings nor is it proposed to reproduce in full all of the parties' evidence. 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 an indication that that statement or item of evidence has been overlooked.

Preliminary issues

9. Mr Cates acting as advocate for the Valuation Office Agency (VOA) requested an adjournment on the grounds that the VOA had recently determined that this assessment was incorrect and steps had been made to merge the appeal hereditament with the other two floors within 9 Devereux Court and backdate the merger to 1 April 2017. Mr Cates confirmed that, as at the date of hearing, this process had not taken place but was due to take place in the next couple of days. Mr Cates pointed out that by the time the decision on this appeal is published the entry for this property would be historic and any decision reached by the panel could not be applied to the new entry for this property.

10. After retiring to consider the adjournment request the panel decided to decline the VOA's adjournment request. The panel was aware that by the time this decision is issued the entry under appeal may be historic. However, the panel can only deal with the issue before it and at the time of the hearing of this appeal the rating list had not been altered and the entry under appeal was still shown in the list.
11. This appeal, had been postponed previously for a different reason therefore there has been plenty of time from the check / challenge stage up until this hearing to identify that the assessment was incorrect and have it altered. However, the panel found it disappointing that this had not been done and it had reached the appeal stage.
12. Mr Cates left the meeting at this point.
13. Having decided the appeal should be heard both parties requested that new evidence be introduced.
14. Mr Bacon had submitted an application on 13 August 2021 for new evidence to be admitted this evidence consisted of settlements within Essex Street and the settlements of the Upper Tribunal appeals in the Inns of Court and a copy of the consent order. No objection to this new evidence had been received by the Tribunal from the VOA prior to this hearing or at the hearing therefore this evidence was admitted.
15. Mr Shaw of the VOA who was acting as advocate and expert witness in this appeal requested that the rental evidence on 2nd & 3rd floors, 9 Devereux Court be admitted. Mr Bacon did not object to Mr Shaw referencing rents at 2nd & 3rd floors, 9 Devereux Court, therefore this evidence was also admitted.

Issue

16. The issue between the parties concerned the RV of the appeal property and, specifically, the rate per m² that should apply. Mr Bacon, for the appellant, sought a reduction to £52,500 RV based on £350 m². Mr Shaw, for the VO, defended the existing RV of £81,000, which was based on £500 m² and sought dismissal of the appeal.

Decision and reasons

17. 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).
18. Matters that affect the physical state or enjoyment of the property or the locality were to be taken as at 1 April 2017 (material day) for this appeal.
19. The appeal property is owned by the Honourable Society of the Middle Temple and is rented out. The panel was not presented with rental evidence on the appeal property and neither party seemed to be relying upon it at the hearing.
20. In order to establish a value for the appeal property the panel referred to the comparable evidence presented by the parties.

21. The panel initially examined 15-19 Devereux Court, this 1990 standard property was situated very close to the appeal property. There was a new January 2016 letting on this property. The VO had analysed the rent to a basic value of £450 m², which took into account that it had partial air conditioning. This property is valued as an office but is being used as a language school. The panel was informed that significant sums had been spent on improving this property. The VO accepted that not all the improvements are rateable but a large proportion of them would certainly need to be taken into account. Mr Bacon argued that the improvements were for converting an office into a school, therefore, the additions for converting it into a school should not be taken into account. The panel considered the parties respective arguments on how the rent on this property should be adjusted and what improvements should be considered. However, the panel was of the opinion that too many adjustments were needed to this rent to be helpful in establishing a value for the appeal property. The panel was not presented with any documentary evidence to support the parties respective analysing of this rent. For these reasons the panel placed little weight on this evidence.
22. The panel noted the analysis given by the VO on the rents at 2nd & 3rd floors, 9 Devereux Court. He informed the panel that the rent on the 2nd floor was effective from June 2016 it was on a 6 year lease and the rent was £118,272 pa. The rent on the 3rd floor was effective from June 2016 also on a 6 year lease and the rent was £120,000 pa. His headline analysis on these rents come to over £600 m². The VO stated that his evidence supported the current tone of £500 m² adopted for the appeal property.
23. The panel was informed by Mr Bacon that the rents on 2nd & 3rd floors, 9 Devereux Court are fully inclusive of the service charge, therefore they need adjusting down. Consequently, in adjusting these rents to the AVD, taking into account they included service charge and adjusting for the fact they are on a three month rolling break clause it was Mr Bacon's opinion that these rents would support his value of £350 m² for the appeal property.
24. Again no documentary evidence was placed before the panel to support either parties' analysis of these rents. On considering this evidence the panel concluded that too many adjustments to these rents were needed to help establish if they supported either parties' respective valuation. Due to the lack of any documentary analysis of these rents the panel did not find this evidence assisted it in establishing a value for the appeal property. Consequently, little weight was placed on it.
25. Mr Shaw also referred to properties in Bedford Row WC1R 4HE and Lincolns Inn WC2A 3LZ these properties are located within a 15 minute walk from the appeal property, they are period properties and in the VO's opinion are comparable to the appeal property. He contended the analysis of the rents on these properties supported the tone established for the appeal property.
26. There was a lease renewal on Gnd & 1st Flrs, 26-28 Bedford Row it was a 10 year lease effective 1 April 2015 at £250,140 pa. Adjusting this rent on a like for like basis with the appeal property taking into account it had air conditioning and raised floors the VO analysed this rent to £475.73 pa.
27. Mr Shaw stated that 4th Floor, 51 Lincolns Inn Field was a similar property to the appeal property. This was a lease renewal rent for 7 years and 2 months effective from 15 February 2015 and the rent was £74,350 pa, with a rent review in the 5th year. This property had air conditioning but no raised floors and making the necessary adjustment on a like for like basis the VO analysed this rent to £443.90 m².

28. The panel placed little weight on Bedford Row as it considered this property was a different type of property located further away. Lincoln's Inn is located in Camden and is nearer than Bedford Row, however it was in a more attractive location than the appeal property, which is located in an alleyway. Even though the panel took account of the evidence within Lincolns Inn it placed more weight on the properties that were located closer to the appeal property.
29. Mr Bacon proposed a valuation of the subject hereditament based upon the agreements reached within Inner and Middle Temple (Crown Office Row, Doctor Johnson's Building & South 2 Pump Court). The value within Inner and Middle Temple were agreed by consent order at Upper Tribunal at £400 m². It was Mr Bacon's opinion that these properties were in a better location than Devereux Court and therefore would attract a higher value. The Appellant's representative also introduced settlement evidence regarding 42 Essex Street, which is an infill 1960's building situated just outside of Temple agreed at challenge at £350 m². He also referred to Temple Chamber EC4 which is a refurbished Victorian building that is assessed in line with the rents in the location at £330 m².
30. It was Mr Bacon's opinion that taking into account the above evidence a rate of £350 m² should be applied to the appeal property.
31. The panel noted that this appeal was previously postponed pending the outcome of the appeals at the Upper Tribunal within Inner and Middle Temple (Crown Office Row, Doctor Johnson's Building & South 2 Pump Court) as it was considered they had a bearing on this appeal. It is noted that these appeals had been agreed by consent at £400 m². The panel consider that Inner and Middle Temple is a superior location compared to where the appeal property is located, which is located in an alleyway with limited access, a poor outlook and issues with natural light. Consequently, the panel agree that the value of the appeal property should be below the values agreed by consent within Inner and Middle Temple.
32. The panel considered the other settlement evidence presented by Mr Bacon of properties outside of the Temple namely 42 Essex Street and Temple Chambers. These properties had been settled at £350 m² and £330 m² respectively. The panel is satisfied that Mr Bacon had demonstrated that values outside of the Temple which had been settled at £400 m² were lower. The settlements on 42 Essex Street and Temple Chambers, in the panel's opinion supported Mr Bacon's contention that a value of £350 m² for the appeal property was reasonable. Therefore, the appeal is allowed.

Order

33. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the VTE orders the Valuation Officer to alter the List within two weeks of the date of this order to show, 1st Flr, 9 Devereux Court, London WC2R 3JJ at a Rateable Value of £52,500 with effect from 1 April 2017.
34. If the appeal was successful (either in part or full) a refund of the paid fee will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

Date: 24 September 2021

Appeal number: CHG10030856